

IN THE SUPREME COURT OF THE STATE OF MONTANA

IN THE MATTER OF RULES FOR  
THE DISQUALIFICATION AND  
SUBSTITUTION OF JUDGES

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O R D E R

ED SMITH, CLERK  
MONTANA SUPREME COURT

89 NOV 20 4 27 PM '89

FILED

The Court's attention has been drawn to two clarifications needed in the Rules for the Disqualification and Substitution of Judges adopted by this Court on September 13, 1988, and now codified at §§ 3-1-801 through -805, MCA. Sections 3-1-804(1)(a) and (b), MCA, are modified as follows:

(a) A motion for substitution of a district judge shall be made by filing a written motion with the clerk, as follows:

"The undersigned hereby moves for substitution of District Judge \_\_\_\_\_ in this case."

A copy of the motion shall be served upon all parties to the proceeding and the clerk shall immediately notify the judge and the first judge in jurisdiction, if there has already been a substitution. After a timely motion has been filed, the substituted judge shall have no power to act on the merits of the cause or to decide legal issues therein, and shall call in another judge. However, a resident district judge who has previously been substituted from the case may agree to set the calendar, draw a jury, conduct all routine matters including arraignments, preliminary pretrial conferences in civil cases, and other matters which do not go to the merits of the case, if the judge in jurisdiction authorizes the same.

(b) The first district judge who has been substituted or disqualified for cause shall have the duty of calling in all subsequent district judges. In a multi-judge court all other judges in that court shall be called, in accordance with that court's internal operating rules, before a judge from another district court is called in. It shall be the duty of the clerk of court to stamp the name of the judge to whom the case is assigned on the

face of the initial pleading, complaint, order to show cause, or information, and all copies thereof.

IT IS ORDERED that the above amendments to §§ 3-1-804(1)(a) and (b), MCA, are effective as of the date of this order.

The Clerk of this Court is directed to mail copies of this order to the following:

The Code Commissioner of the State of Montana;

District Court Judges of the State of Montana;

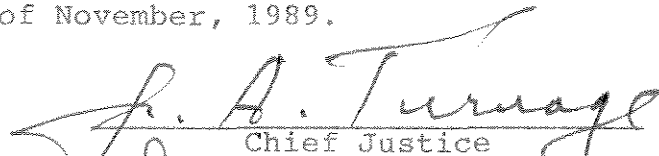
Clerks of the District Courts of the State of Montana;

United States District Court Judges of the State of Montana;

President and Executive Director of the State Bar of Montana, with direction that it be published in the Montana Lawyer;

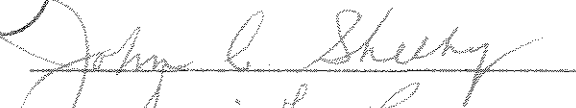
President and Executive Director of the Montana Trial Lawyers Association.

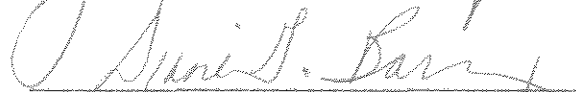
DATED this 20<sup>th</sup> day of November, 1989.

  
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Chief Justice

  
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Justices