IN THE SUPREME COURT OF THE STATE OF MONTANA

IN THE MATTER OF RULES FOR   )
THE DISQUALIFICATION AND   )   ORDER AMENDING RULE
SUBSTITUTION OF JUDGES   )   3-1-804(1)(c), MCA.

Pursuant to the power placed in this Court by Article VII, Section 2, of the 1972 Montana Constitution, this Court has established rules for the disqualification and substitution of judges in civil and criminal cases, and such rules are now codified at §§ 3-1-803 through 3-1-805, MCA.

By Order Amending Rule dated November 10, 1994, this Court adopted an amendment of § 3-1-804(1)(c), MCA, with a declared effective date of February 1, 1995, and a comment period extending to January 31, 1995. Following the receipt of comments, this Court has concluded it is appropriate to continue the amendment in effect with the exception that the twenty day period stated in three different places in the paragraph (c) will be modified to thirty days.

This Court adopts the following amendment of § 3-1-804(1)(c), MCA, with an effective date of June 1, 1995:

> (c) When a judge is assigned to a cause for 30 consecutive days after service of a summons, or 10 consecutive days after service of an order to show cause, information or other initiating document, and no motion for substitution of judge has been filed within said time period, the plaintiff or the party filing the order, information or other initiating document, and the party upon whom service has been made shall no longer have a right of substitution. Any party named in a summons who is subsequently served shall have 30 consecutive days after such service in which to move for a substitution of judge. Any person subsequently served in connection with an order to show cause, information or other initiating document, shall have 10 consecutive days after such service in which to move for a substitution of judge. If the presiding judge removes himself or herself, or a new judge assumes jurisdiction of the cause by virtue of the internal operating rules of a multi-judge court, the right to move for substitution of a judge is reinstated, unless having been previously used in the cause by the

moving party, and the time periods shall run anew. After the time period shall have run as to the original parties to the proceeding, no party who is joined or intervenes thereafter shall have any right of substitution, except that one third party defendant who is not an original party in any pending case may have a right of one substitution within 30 consecutive days after the service upon the third party defendant of a third party complaint.

ORDER SUPERSEDES SECTION 3-1-804(1)(c), MCA as modified by Order of this Court dated November 10, 1994:

By the authority of Article VII, Section 2, of the 1972 Montana Constitution, this revised rule amends and is to be used in place of the rule set forth in the Order Amending Rule 3-1-804(1)(c), MCA, dated November 10, 1994.

EFFECTIVE DATE: This revision of the rule shall take effect on June 1, 1995.

NOTICE:

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;

Clerks of the United States District Courts of the State of Montana;

President and Executive Director of the State Bar of Montana, with the request that this order be published in The Montana Lawyer;
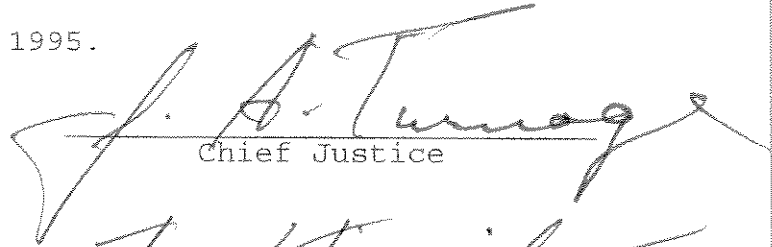
President and Executive Director of the Montana Trial Lawyers Association, with the request that this order be published in the Association journal;

President and Executive Director of the Montana Defense Trial Lawyers Association, with the request that this order be published in the Association journal;
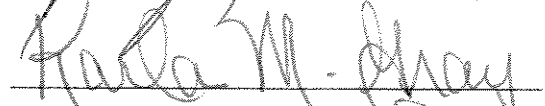
West Publishing Company, with a request that it be published in the Pacific Reporter; and

State Reporter Publishing Company, with a request that it be published in the _State Reporter_.
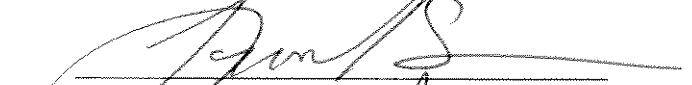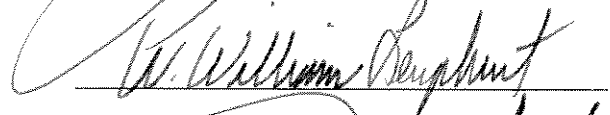
DATED this 6th day of April, 1995.

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Chief Justice

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Justices