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MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

IN THE MATTER OF THE PETITION OF WALKER CREEK WATER USERS TO ENFORCE WATER COURT DECREE AND APPOINT A WATER COMMISSIONER	Cause No. DV-25-2022-0000771-MT MOTION TO DISQUALIFY JUDGE MCMAHON PURSUANT TO RULE 2.12 OF MONTANA CODE OF JUDICIAL CONDUCT
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COMES NOW Zinn Ranch, LLC, (“Movant”), by and through their counsel of record, respectfully moves this Court for an order disqualifying Honorable Judge Michael McMahon from presiding over this case pursuant to Rule 2.12 of the Montana Code of Judicial Conduct. In support of this Motion, Movant states as follows:

1. Raymond D. Zinn and DeLona Zinn (“Zinns”) are the only members of Zinn Ranch, LLC, a Montana limited liability company.
2. Zinn Ranch, LLC, is a party to the current proceedings in the First Judicial District of Montana.
3. Judge Michael McMahon is currently presiding over this case.

4. Prior to assuming the bench, Judge McMahon represented a defendant, Edward P. Chevalier, in *Raymond D. Zinn, et al. vs. Chevallier Ranch Company, et al.*, Cause No. DV-25-2010-0001111-NE (“Ranch Matter”).

5. Zinns were Plaintiffs in the Ranch Matter.

LEGAL STANDARDS FOR DISQUALIFICATION

Under Rule 2.12 of the Montana Code of Judicial Conduct, a judge must disqualify themselves in any proceeding in which their impartiality might reasonably be questioned. Specifically, Rule 2.12(A)(1) mandates disqualification if the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

The Montana Code of Judicial Conduct emphasizes the importance of impartiality and fairness in judicial proceedings. A judge must uphold and apply the law impartially and perform all duties of judicial office fairly and impartially. Mont. Code of Jud. Conduct, Rule 2.2.

ARGUMENT

Judge McMahon’s Prior Involvement with Zinns Is Cause for Recusal or Disqualification.

Judge McMahon’s prior involvement in a case in opposition to the Zinns creates a reasonable question regarding the judge's impartiality in the current proceedings. As opposing counsel in the Ranch Matter, Judge McMahon made comments to Zinns’ counsel regarding the Zinns, referring to them, *inter alia*, as “rich out-of-staters,” which could be perceived as disparaging and partial. Given the outcome of the Ranch Matter, Judge McMahon’s previous involvement as a practicing attorney in opposition to the Zinns, his comments about them, and his potential bias or prejudice against the Zinns. Judge McMahon should recuse himself or be disqualified.

Moreover, allowing Judge McMahon to preside over this case would undermine public confidence in the judiciary's independence and impartiality, as outlined in Rule 1.2 of the Montana Code of Judicial Conduct.

Judge McMahon may have personal knowledge of facts in dispute.

A judge who has personal knowledge of facts at issue should disqualify himself under Rule 2.12(A)(1). Among other issues, the Ranch Matter involved a dispute over property rights and alleged disclosure obligations related to the sale of real property. Through discovery and prior proceedings, Judge McMahon may have acquired extrinsic knowledge of factual matters pertinent to this case—specifically concerning water rights and historical water usage on the property sold to Zinn Ranch, LLC.

While the facts in the Ranch Matter may only be ancillary to the core issues before the Court, there remains a non-negligible possibility that Judge McMahon possesses personal knowledge of disputed facts. Even a remote risk of personal knowledge and partiality arising from extrajudicial knowledge warrants disqualification.

CONCLUSION

Because Judge McMahon's partiality is in question, and he may have personal knowledge of some material facts in dispute, Judge McMahon should recuse himself or be disqualified. For the reasons stated above, Zinn Ranch, LLC, respectfully requests that:

- A. The Court enter an order disqualifying Judge McMahon from presiding over this matter.
- B. The case be reassigned to another judge in the First Judicial District.
- C. Any pending hearings be stayed pending resolution of this motion.

DATED this 4th day of April 2025.

SILVERMAN LAW OFFICE, PLLC



Tony D. Dalton

Attorneys for Zinn Ranch, LLC

CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2025, I served a true and accurate copy of the foregoing *Notice of Appearance* by email and/or U.S. First-Class Mail at Helena, Montana, postage prepaid, addressed to the following:

Rebecca Dockter
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Shelby L. Streib
Shelby L. Streib, Paralegal

CERTIFICATE OF SERVICE

I, Tony D. Dalton, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to Disqualify to the following on 04-04-2025:

Rebecca Dockter (Attorney)
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Electronically Signed By: Tony D. Dalton
Dated: 04-04-2025