

FILED

12/12/2025

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: pr 25-0001

CLERK OF DISTRICT COURT

Lake County Courthouse
106 4th Avenue East
Polson MT 59860
(406) 883-7214

December 9, 2025

Chief Justice
Montana Supreme Court
PO Box 203001
Helena, MT 59620

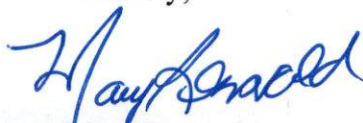
Re: Raeann Emerson, Plaintiff vs. Supreme Court State of Montana, Defendant
Lake County Cause No. DV-24-128

Dear Sir/Madam,

Pursuant to Judge Abbott's Order, enclosed please find a certified copy of the Motion for Substitution of Judge filed on December 1, 2025 along with a certified copy of the Order on Motion to Substitution Judge filed on December 9, 2025. Also enclosed is a case register of action in the above-entitled matter.

If you have any questions, please give us a call.

Sincerely,



Mary Rensvold
Clerk of District Court

Enclosures

PR25-0001

MOTION FOR LEAVE TO FILE OUT-OF-TIME MOTION FOR SUBSTITUTION OF JUDGE

MARY RENSVOLD
CLERK OF DISTRICT COURT

FILED BY *[Signature]*

2025 DEC -1 P 12:14

Cause No.: DV-24-128

Plaintiff: Raeann Emerson

Defendant: State of Montana Supreme Court

Court: 20th Judicial District Court, Lake County, Department 2

Current Presiding Judge: Hon. Christopher Abbott

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Bowen Greenwood
Clerk of Supreme Court
State of Montana

COMBINED PACKET

I. INTRODUCTION

Plaintiff, Raeann Emerson, respectfully moves this Court for leave to file an out-of-time Motion for Substitution of Judge pursuant to § 3-1-804, MCA, and the Court's inherent authority to prevent injustice and preserve the integrity of judicial proceedings.

Good cause exists for permitting an untimely filing because the Plaintiff's ability to exercise the statutory right to substitution was obstructed by (1) a series of improper and ineligible judicial assignments issued by the Clerk of Court, and (2) subsequent improper and prejudicial conduct involving the most recently appointed judge, Hon. Christopher Abbott, in a separate but related matter. These circumstances prevented Plaintiff from timely filing a substitution and constitute good cause for the Court to accept the motion out of time.

II. PROCEDURAL HISTORY

1. This action was filed under Cause No. DV-24-128.
2. The last filing by a party was Defendant's response to Plaintiff's reply regarding Defendant's Motion to Dismiss; the matter has been fully briefed and ripe for ruling for approximately one year.
3. Throughout the case, the Clerk of Court issued multiple judicial assignments to judges who were legally barred, conflicted, or otherwise ineligible to preside.
4. Plaintiff relied on the Clerk's representations and was not given a proper or lawful assignment during the time in which the statutory substitution period would ordinarily run.

14

5. After the series of improper assignments, the Clerk assigned Hon. Christopher Abbott of the 20th Judicial District Court, Department 2, as the presiding judge.
 6. Plaintiff subsequently discovered improper and potentially corrupt interactions between the Clerk and Judge Abbott in another case involving Plaintiff, raising substantial concerns regarding impartiality and fairness.
 1. Exhibit A. Judge Abbott's Order regarding ex-parte communications with Lyn Fricker.
-

III. GOOD CAUSE FOR OUT-OF-TIME FILING

Plaintiff demonstrates good cause for the Court to permit an untimely substitution based on the following:

A. The Clerk's Repeated Improper Judicial Assignments Prevented Timely Filing

The statutory period for substitution never meaningfully began because the Clerk failed to issue a lawful and proper judicial assignment. Plaintiff could not seek substitution of a judge who was not validly assigned.

B. Newly Assigned Judge's Conduct in a Separate Matter Creates Reasonable Questions of Impartiality

Hon. Christopher Abbott's involvement in questionable or inappropriate communications with the Clerk in another case involving Plaintiff only became known after his assignment to DV-24-128. These concerns could not have been raised earlier and directly impact Plaintiff's due process rights.

C. The Delay Was Not Caused by Plaintiff

Plaintiff acted promptly upon discovering the improper assignments and the issues involving the current judge. Any delay was the result of the Clerk's errors and conduct, not Plaintiff's actions.

D. Interests of Justice Require the Court to Accept the Motion

The right to a neutral and impartial judge is fundamental. No procedural deadline may override a party's right to a fair tribunal. Allowing the out-of-time filing is necessary to preserve confidence in the judicial process.

IV. REQUEST FOR RELIEF

Plaintiff respectfully requests that this Court:

1. Grant leave to file an Out-of-Time Motion for Substitution of Judge;
2. Accept the attached proposed Motion for Substitution of Judge as filed; and
3. Grant any other relief deemed just and proper.

V. CERTIFICATION OF SERVICE

Plaintiff certifies that a true and correct copy of this filing was served upon all parties of record on this date in accordance with Montana law.

DATED: 11/24/2025

**Respectfully submitted,

 Baeann Emerson, Plaintiff

CERTIFICATE OF SERVICE

I certify that on this 24th day of November 2025, a true and correct copy of the foregoing **Out-of-Time Motion for Substitution of Judge, Proposed Order, and Declaration** was served by depositing the same, postage prepaid, in the United States Mail, addressed to:

Kathleen Verderber
Assistant Attorney General
P.O. Box 201440
Helena, MT 59602

MOTION FOR SUBSTITUTION OF JUDGE (OUT OF TIME)

Cause No.: DV-24-128

Plaintiff: Raeann Emerson

Defendant: State of Montana Supreme Court

Montana Twentieth Judicial District Court, Lake County, Department 2

MOTION FOR SUBSTITUTION OF JUDGE OUT OF TIME

COMES NOW Plaintiff Raeann Emerson, self-represented, and respectfully moves this Court for an Out-of-Time Substitution of Judge pursuant to Mont. Code Ann. § 3-1-805 and the Court's inherent authority to ensure fairness, due process, and the appearance of impartiality.

I. INTRODUCTION

Plaintiff seeks substitution of the currently assigned judge, the Honorable Christopher Abbott, on the grounds that the statutory timelines were rendered impossible to comply with due to an extended sequence of improper, conflicted, or disqualified judge assignments by the Clerk of Court and the District Court. Plaintiff further shows that Judge Abbott has prior involvement, knowledge, and ex parte exposure involving Plaintiff in a separate matter, creating a reasonable question of impartiality.

II. FACTUAL BACKGROUND SUPPORTING UNTIMELINESS

- 1. Filing Obstruction by Clerk of Court:** Plaintiff attempted to file this action with the Lake County Clerk of Court, who previously harassed Plaintiff, refused to file the case, and improperly sealed it. These actions prevented Plaintiff from accessing a valid initial assignment consistent with MCA § 3-1-804.
- 2. Improper Initial Judicial Assignments:**
 - The case was first assigned to the District Judge for whom Plaintiff previously worked as a judicial assistant—creating an immediate and obvious conflict.
 - The case was then reassigned to a second judge who had personally engaged in harassment toward Plaintiff while acting in judicial capacity, also rendering substitution impossible under the statutory deadlines.
 - Following the resignation of the first judge, the Clerk assigned the case to Judge John Mercer—close personal associate of the prior judge and someone with whom Plaintiff had documented conflicts. Judge Mercer held the case for several months and only recently recused after a prolonged delay.

3. **Assignment to Hon. Christopher Abbott:** Now the matter has been reassigned to Judge Abbott. Plaintiff notes that Judge Abbott issued orders in a separate civil matter involving Plaintiff, in which the Clerk of Court attempted to engage him in ex parte discussions about Plaintiff. Judge Abbott documented these attempts in court orders. Thus, his involvement in matters related to the same Clerk-of-Court misconduct at issue here raises legitimate concerns regarding both impartiality and appearance thereof.
4. **Case Ripe for Ruling for Nearly a Year:** No party action has occurred since Defendant filed a response to Plaintiff's reply regarding the Motion to Dismiss. The matter has been ripe for over one year and the sequence of improper assignments prevented a timely substitution.

III. ARGUMENT (EXPANDED LEGAL AUTHORITY)

Montana law allows substitution of a judge as of right under MCA § 3-1-804; however, the statutory timelines assume that a litigant is given a fair and immediate opportunity to exercise that right. When court personnel, judicial conflicts, or procedural irregularities prevent the timely filing, Montana courts recognize broad inherent authority to correct the injustice.

A. Courts Possess Inherent Authority to Protect the Integrity and Impartiality of Judicial Proceedings

Montana courts have repeatedly held that trial courts retain **inherent authority** to ensure fairness beyond the literal wording of procedural statutes. This includes the **power to deviate from deadlines** when strict compliance would violate due process or undermine confidence in the judiciary.

B. Due Process Requires an Impartial Tribunal

The Montana Supreme Court has consistently stated that a litigant's constitutional right to a fair and impartial judge overrides procedural rules. When circumstances create an appearance of bias—or a reasonable question about impartiality—the Court must act to preserve due process.

This principle is grounded in:

- **Montana Constitution, Article II, § 17 (Due Process)**
- **Montana Constitution, Article II, § 16 (Administration of Justice Without Denial)**

C. Timeliness Cannot Be Enforced When the Court Itself Prevented Compliance

Courts across jurisdictions—including Montana—recognize that deadlines cannot be enforced rigidly when **court personnel or judicial assignments themselves create the barrier.**

Here, Plaintiff was denied the ability to file a timely substitution because:

1. The Clerk refused to file the case;
2. The Clerk improperly sealed the case;
3. Judges with direct conflicts were repeatedly assigned to the matter;
4. Judge Mercer held the case for many months while the motion was fully ripe;
5. Judge Abbott has prior exposure to ex parte attempts regarding Plaintiff in another active case.

D. A Judge Who Has Prior Involvement, Knowledge, or Ex Parte Exposure May Be Disqualified

Montana precedent holds that even the **appearance** of impropriety or bias requires substitution. Exposure to ex parte attempts—especially involving the same clerk who is a party to the misconduct alleged in this case—creates a reasonable question regarding impartiality.

A judge's prior involvement in matters involving the same litigant, or knowledge obtained outside the current case, creates grounds for substitution regardless of timeliness.

E. Extraordinary Circumstances Justify Extraordinary Relief

The totality of the circumstances—refusal by the Clerk to file the complaint, sealing it improperly, multiple conflicted judicial assignments, and ex parte attempts involving the currently assigned judge—constitute **extraordinary and systemic procedural failures.**

In such cases, Montana courts may grant relief “to preserve the integrity and appearance of justice,” even when statutory timelines have passed.

F. Conclusion on Legal Standards

This Court has the inherent authority and constitutional obligation to allow an **Out-of-Time Substitution of Judge** where the judicial process itself obstructed the Plaintiff's right to a timely substitution. These facts demonstrate such an obstruction and justify the relief requested.

IV. REQUEST FOR RELIEF

Plaintiff respectfully requests that this Court:

1. Grant this Out-of-Time Motion for Substitution of Judge;
2. Direct the Clerk of Court to obtain assignment of a new, conflict-free district judge from outside the Twentieth Judicial District pursuant to MCA § 3-1-804; and
3. Grant any further relief deemed just and proper.

Respectfully submitted,

Raeann Emerson

Self-Represented Plaintiff

PROPOSED ORDER

Cause No.: DV-24-128

The Court, having reviewed Plaintiff's Motion for Out-of-Time Substitution of Judge and finding good cause to ensure impartiality, due process, and the appearance of fairness, hereby ORDERS as follows:

1. Plaintiff's Motion for Substitution of Judge Out of Time is **GRANTED**.
2. The Clerk of Court shall immediately request appointment of a new judge from outside the Twentieth Judicial District pursuant to MCA § 3-1-804.
3. All pending matters before the previously assigned judge are stayed until reassignment is completed.

DATED this ___ day of _____, 2025.

Hon. Christopher Abbott (or successor judge)

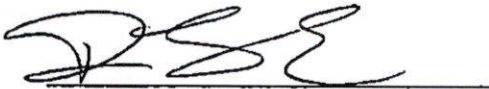
PLAINTIFF'S DECLARATION IN SUPPORT OF MOTION

I, Raeann Emerson, declare under penalty of perjury under the laws of the State of Montana as follows:

1. The Clerk of Court previously harassed me, refused to file this action, and improperly sealed it.

2. The case was repeatedly assigned to judges with direct conflicts, one of whom personally harassed me while performing judicial duties.
3. Judge Mercer held the case for several months before recusing without ruling on the already-ripe motion.
4. Judge Abbott has prior involvement in matters where the same Clerk attempted ex-parte discussions about me.
5. These circumstances prevented me from filing a timely substitution of judge.
6. I make this declaration based on my personal knowledge.

Executed this 24th day of November 2025.



Raeann Emerson, Plaintiff

STATE OF MONTANA } SS
County of Lake

I hereby certify that the document to which this certificate is affixed is a true, correct and compared copy of the original on file in the office of the Clerk of the District Court.
WITNESS my hand and seal of the District Court of Lake County this 9th day of Dec, 2025
Mary Rensvold, Clerk of Court, Lake County, Montana
Court Seal By [Signature]
Deputy Clerk

MARY RENSVOLD
CLERK OF DISTRICT COURT

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Bowen Greenwood
Clerk of Supreme Court
State of Montana

**MONTANA TWENTIETH JUDICIAL DISTRICT COURT
LAKE COUNTY**

RAEANN EMERSON,

Plaintiff,

v.

SUPREME COURT STATE OF
MONTANA,

Defendant.

Cause No.: DV-24-2024-128

**ORDER ON MOTION TO
SUBSTITUTE JUDGE**

Plaintiff Raeann Emerson, representing herself, has moved for a substitution of judge, which she acknowledges to be untimely. She also makes several arguments, that liberally construed, suggest the undersigned should be disqualified for cause. For the reasons that follow, the motion for substitution of judge will be denied and the implied request for disqualification for cause will be referred to the Montana Supreme Court or its designee for decision.

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(15)

1 A motion to substitute judge is governed by Supreme Court rules,
2 codified at Mont. Code Ann. § 3-1-804. Each adverse party is entitled to one
3 substitution of judge on timely motion. Mont. Code Ann. § 3-1-804(1). In a civil
4 case where a judge has assumed jurisdiction from the judge originally assigned
5 the case, a litigant has 30 days from the “date of service of notice or other
6 document identifying the new district judge” to move for substitution. *Id.*
7 § 3-1-804(1)(a),(8). An untimely motion is void. *Id.* § 3-1-804(4). The
8 undersigned has jurisdiction to determine timeliness. *Id.*

9 In this case, the Hon. John A. Mercer recused himself and asked
10 the undersigned, who was presiding over a separate matter involving Emerson, to
11 assume the case. The assumption of jurisdiction was filed March 19, 2025. This
12 renewed Emerson’s right to seek substitution of judge, but she did not file a
13 motion within the next 30 days. Whatever happened with assignment of the case
14 before that date,¹ Emerson had notice as of March 19, 2025, of her right to
15 substitute the undersigned, but she failed to timely do so.

16 There is no constitutional right to no-cause substitution of judges:
17 the right exists solely because a court rule so provides. The Court is thus
18 skeptical of Emerson’s argument that there is thus a liberty interest implicated
19 that would trigger any due process requirements, including an implied good
20 cause exception to the timeliness requirements. Likewise, there is no textual
21 “good cause” exception; to the contrary, the rule provides that an untimely

22 //

23
24
25 ¹ Notably, despite the contention that this case was repeatedly assigned to conflicted judges, the record reflects only
a single substitution: Judge Mercer was assigned at the time of filing, and earlier this year he recused himself and
requested the undersigned to assume the case.

1 attempt to substitute judge is “void.” Emerson’s motion for substitution of judge
2 is unambiguously untimely, and it therefore must be denied.

3 With respect to the remainder of Emerson’s motion, she contends
4 that the undersigned should not sit on this case because of allegedly “improper
5 and corrupt interactions” between the then-Clerk of District Court, Lyn Fricker,
6 and this Court. To provide background, in Cause No. DV-24-2024-95, a
7 landlord-tenant matter, a hearing on the action for possession was held July 2,
8 2024, at which Emerson did not appear. The Court awarded the plaintiffs
9 possession of the rental premises by an order dated July 8. On July 9, Emerson
10 filed a “motion for mistrial & petition for contempt” alleging misconduct by the
11 Clerk of Court and lack of notice of the eviction hearing. The next day, this Court
12 stayed its order of possession and writ of assistance pending briefing on whether
13 a new trial should be held. The Court received from the Clerk of Court an email
14 that same day responding to Emerson’s allegations and including comments on
15 Emerson’s conduct in her office.

16 In response, the Court made the email communication a part of the
17 Court record. On July 11, the Court issued an order cautioning parties or other
18 interested persons from directly contacting the Court with information and
19 limiting such contacts to scheduling and other non-substantive logistical inquiries
20 only. The Court granted Emerson’s request for a new trial on July 15. The
21 proceedings in that landlord-tenant case concluded earlier this year, and no
22 appeal was filed.

23 Although Emerson’s mention of *ex parte* contact is couched as a
24 reason to allow an untimely motion for substitution of judge, it appears to be in
25 fact a request that the undersigned be disqualified for cause. The applicable rule

1 requires that upon receipt of an affidavit "alleging facts showing personal bias or
2 prejudice of the presiding judge," the judge shall refer the matter to the Montana
3 Supreme Court. Mont. Code Ann. § 3-1-805.1. The Court recognizes that the
4 Montana Supreme Court is also the defendant in this matter, but it is nevertheless
5 the body empowered to determine how to address this request.

6 Accordingly,

7 **IT IS ORDERED:**

8 1. Emerson's Motion for Leave to File Out-of-Time Motion for
9 Substitution of Judge (Dkt. 14), filed December 1, 2025, is **DENIED**.

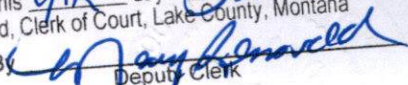
10 2. To the extent Emerson contends the undersigned should be
11 disqualified for cause, this matter is referred to the Montana Supreme Court for
12 decision. The Clerk of District Court shall forward this order and Emerson's
13 motion to the Supreme Court forthwith.

14 DATED this 8 day of December 2025.

15
16 


17 CHRISTOPHER D. ABBOTT
18 District Court Judge

19 STATE OF MONTANA } SS
20 County of Lake

21 I hereby certify that the document to which this certificate is
22 affixed is a true, correct and compared copy of the original
23 on file in the office of the Clerk of the District Court.
24 WITNESS my hand and seal of the District Court of
25 Lake County this 9th day of Dec. 2025
Mary Rensvold, Clerk of Court, Lake County, Montana
Court Seal By  Deputy Clerk

22 cc: Raeann Emerson, via email

23 Kathleen N. Verderber, via email

24  Clerk of the Montana Supreme Court

25 CDA/ivDV-24-2024-128 Emerson v. SCMT - Order on Motion to Substitute Judge.doc

12/9/25/mlr

Roa Listing

DV-24-2024-0000128-OC

Date	Filing #	Action
RAEANN EMERSON vs. SUPREME COURT STATE OF MONTANA		
12/09/2025	15.00	Order on Motion to Substitute Judge
12/01/2025	14.00	Motion for Leave to File Out-of-Time Motion for Substitution of Judge (Filed By EMERSON, RAEANN on behalf of)
03/19/2025	13.00	Order of Recusal and Assumption of Jurisdiction (Abbott for Mercer)
11/06/2024	12.00	Reply Brief (Filed By VERDERBER, KATHLEEN on behalf of)
10/21/2024	11.00	Response to Defendant's Motion to Dismiss for Statute of Limitations (Filed By EMERSON, RAEANN on behalf of)
10/01/2024	10.00	Defendant's Brief In Support of Motion to Dismiss (Filed By VERDERBER, KATHLEEN on behalf of)
10/01/2024	9.00	Defendant's Motion to Dismiss (Filed By VERDERBER, KATHLEEN on behalf of)
08/16/2024	8.00	Second Amended Summons Issued (Filed By EMERSON, RAEANN on behalf of)
08/16/2024	7.00	Summons (6/26/24 Issued) Returned (Filed By EMERSON, RAEANN on behalf of)
07/29/2024	6.00	Order denying plaintiffs motion for entry of default judgment -
07/24/2024	5.00	Brief In Support of Motion for Rule 55 Default Judgment
07/24/2024	4.00	Motion for Rule 55 Default Judgment
07/08/2024	3.00	Amended Summons Issued (Filed By EMERSON, RAEANN on behalf of)
06/26/2024	2.00	Complaint & Demand for Jury Trial & Summons Issued (Filed By EMERSON, RAEANN on behalf of)
06/26/2024	1.00	Affidavit of Indigence and Order (Filed By EMERSON, RAEANN on behalf of)

STATE OF MONTANA }
County of Lake } SS

I hereby certify that the document to which this certificate affixed is a true, correct and compared copy of the original on file in the office of the Clerk of the District Court.

WITNESS my hand and seal of the District Court of Lake County this 9th day of Dec. 2025
Mary Rensvold, Clerk of Court, Lake County, Montana

Court Seal By [Signature]
Deputy Clerk