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**MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY
BEFORE THE HONORABLE JOHN W. LARSON**

<p>STATE OF MONTANA, Plaintiff,</p> <p>v.</p> <p>THOMAS BOLICH, Defendant.</p>	<p>Cause No. DC-25-473</p> <p>DEFENDANT’S MOTION TO DISQUALIFY JUDGE AND REQUEST FOR REASSIGNMENT AND SUPPORTING BRIEF</p>
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INTRODUCTION

Pursuant to Montana Code Annotated § 3-1-805 and Montana Code of Judicial Conduct Rule 2.12(A), Thomas Bolich moves this Court for an order disqualifying the Honorable John Larson from further proceedings in this matter and reassigning this case to another district judge.

This motion is not based on an adverse ruling. It is based on the cumulative effect of objective facts showing that the Court’s impartiality might reasonably be questioned: the Court’s sua sponte rejection of Bolich’s pretrial motions; its express reliance on filings from the unrelated *Stroup* matter that it took judicial notice of; its characterization of counsel’s deficiencies as “consistent with reliance on undisclosed GenAI”; and its broader linkage of Bolich’s case to a pattern of supposed misconduct by counsel across multiple cases. These objective facts create an appearance of bias that violates Mr. Bolich’s constitutional rights to due process and a fair tribunal under the Sixth and Fourteenth Amendments to the United States Constitution and Article II, Sections 17 and 24 of the Montana Constitution.

FACTUAL BASES FOR DISQUALIFICATION

1. Mr. Bolich was charged with one count of aggravated assault, bodily injury, on September 3, 2025. Doc. 5 in *State v. Bolich*, Cause No. 25-473.¹
2. On February 11, 2026, defense filed Defendant's Pretrial Motions (Doc. 18).
3. On February 25, 2026, the State filed an Emergency Motion to Strike Defendant's Pretrial Motions (Doc. 20), arguing the motions lacked specificity.
4. On February 25, 2026, the State also filed two separate Statements of Facts and Responses to Defendant's Motions in Limine (Docs. 21 and 22), demonstrating that the State fully understood the scope and nature of Mr. Bolich's evidentiary objections and provided detailed responses addressing specific evidence including surveillance video, witness statements, medical photographs, and background relationship evidence.
5. On March 5, 2026, defense counsel filed Defendant's Combined Reply Brief in Support of Pretrial Motions and Opposition to State's Emergency Motion to Strike (Doc. 23), which contained a full Local Rule 3(G) certification stating that Lexis Protégé, a legal-specific generative AI tool, was used to conduct preliminary case law research and that all citations and legal propositions had been verified by human counsel.
6. On March 11, 2026, Judge Larson issued an Order of Rejection in this case (Doc. 24), rejecting Defendant's Pretrial Motions (Doc. 18) sua sponte.
7. The March 11, 2026 Order of Rejection took judicial notice of "recent public court filings involving Defendant Bolich's attorney in *State v. Justin Floyd Stroup*," specifically referencing the Motion to Dismiss (Doc. 35), Motion to Strike for Violation of Local Rule 3(G) (Doc. 40), and Motion to Dismiss (Doc. 43) filed in that unrelated case.²

¹ Facts are taken from filings in *State v. Bolich*, Cause No. DC-25-473 and cases on file in Fourth Judicial District.

² Doc. 24, p. 2 fn 1.

8. On the same day, March 11, 2026, Judge Larson issued a similar Order of Rejection in *State v. Buyce*, DC-25-341 (Doc. 38), also involving defense counsel.³

9. The Order of Rejection in Mr. Bolich’s case stated that the deficiencies in the pretrial motions “are consistent with reliance on undisclosed GenAI in violation of Mont. 4th Jud. Dist. Loc. R. 3G.”

10. The Order did not mention or address the fact that the State had responded to the pretrial motions (Doc. 18) on the merits, that it had not raised any issue regarding GenAI, and that Defendants’ reply brief and response to the State’s motions (Doc. 23) included the Rule 3(G) certification.

11. The State filed two briefs totaling 25 pages of substantive briefing addressing the merits of Bolich’s pretrial motions and made no objection to the motions on the basis of AI use.

12. Mr. Bolich is scheduled to begin his jury trial on April 24, 2026.

LEGAL STANDARD

Mont. Code Ann. § 3-1-805(1) provides that “[w]henever a party to any proceeding in any court files an affidavit alleging facts showing personal bias or prejudice of the presiding judge, such judge shall proceed no further in the cause” and the matter must be referred for assignment of another judge.

Rule 2.12(A) of the Montana Code of Judicial Conduct states: “A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer.” Comment to Rule 2.12 further

³ Doc. 38 in *State v. Buyce*, Cause No. DC 25-341 p. 2 fn. 1.

provides that “A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.”

The test is not whether Judge Larson believes he can be fair, but whether “the judge’s impartiality might reasonably be questioned” by an objective observer. Montana Code of Judicial Conduct R. 2.12(A); *Reichert v. State*, 2012 MT 111, ¶ 31, 365 Mont. 92, 278 P.3d 455 (disqualification governed by Rule 2.12 and “appearance of impropriety” standard); *Caperton v. A. T. Massey Coal Co.*, 556 U.S. 868, 876 (2009) (“[A] fair trial in a fair tribunal is a basic requirement of due process.”). The Due Process Clause guarantees “a fair trial in a fair tribunal.” *Caperton*, 556 U.S. at 876. Montana has “instituted more rigorous standards for judicial disqualification than those required by due process” and applies Rule 2.12’s objective appearance-of-bias test. *State v. Dunsmore*, 2015 MT 108, ¶¶ 11-13, 378 Mont. 514, 347 P.3d 1220, *Reichert*, 2012 MT at ¶ 31.

ARGUMENT

I. The Court’s Cross-Case References Create an Appearance of Bias.

In its March 11, 2026 Order of Rejection, the Court took judicial notice of filings in *State v. Stroup*, an unrelated case involving defense counsel. This cross-case reference was unnecessary to the Bolich proceeding and appeared to signal the Court’s suspicions about defense counsel’s work across multiple cases. The Court stated: “The Court takes judicial notice pursuant to M. R. Evidence 101 and 202(b)(6) of the recent public court filings involving Defendant Bolich’s attorney in *State v. Justin Floyd Stroup* (Mont. 4th Jud. Dist. Ct. Feb. 9, 2026) (DR(*sic*)-2024-575), including the *Motion to Dismiss* (Doc. #35), *Motion to Strike for*

Violation of Local Rule 3(G) (Doc. #40), and *Motion to Dismiss* (Doc. #43) filed therein.”⁴

The most significant fact here is not simply that the Court rejected Bolich’s filing. It is that the Court did so while expressly taking judicial notice of filings from a different defendant’s case and then characterizing the alleged deficiencies in Bolich as “consistent with reliance on undisclosed GenAI.” That cross-case reference was not necessary to determine whether Bolich’s motion contained an adequate factual statement. The Court could have ruled on the filing before it, on its own terms, without invoking *Stroup*. Instead, the Court imported concern from another case involving the same lawyer and used that concern to frame its view of Bolich’s filing.

To a reasonable observer, that matters. It suggests that the Court is not evaluating Bolich’s filings solely on their individual merits, but is instead viewing them in the context of a broader suspicion about counsel’s work product. Under Rule 2.12(A)(1) of the Montana Code of Judicial Conduct, a judge “shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned,” including when the judge has “a personal bias or prejudice concerning a party or a party’s lawyer.”

The standard is objective: whether a reasonable person, knowing all the relevant facts, would doubt the judge’s ability to remain impartial. *State v. Strang*, 2017 MT 217, ¶ 22, 388 Mont. 428, 434, 401 P.3d 690, 695-96, citing Montana Code of Judicial Conduct, Rule 2.12(A); *Reichert*, 2012 MT 111, ¶ 50. As the Court noted in *Strang*, this includes situations in which the “judge has a personal bias or prejudice concerning a party or a party’s lawyer [...]” *Id.*, Rule 2.12(A)(1).

That is the problem here.

If the Court appears to have formed a generalized negative view of counsel and to be

⁴ See Doc. 24 Order of Rejection p. 2 fn 1 “DR” in original.

applying that view across multiple cases, a reasonable person would question whether Bolich can receive neutral consideration of future motions, trial rulings, and evidentiary objections. A reasonable observer, aware that the Court has publicly described undersigned's work in three cases as reflecting "inept use of GenAI" and "an unacceptable level of practice before this Court"⁵ would question the Court's impartiality, especially knowing that the Court's actions were on its own motion and not at the public request of the State.

The Court went beyond the record before it, amplifying inflammatory (and incorrect) headlines about "incompetent use of GenAI." In doing so, the Court deliberately pulled in unconnected cases and extra-record information, based on suspicion. Under these facts, the appearance of impartiality is impossible and disqualifying. *Strang*, 2017 MT 217 at ¶ 26 (to be disqualifying, the knowledge must be obtained extrajudicially rather than in the judge's official capacity during the course of a proceeding), citing and quoting Arthur H. Garwin et al., Annotated Model Code of Judicial Conduct 308 (3d ed. 2016) (cleaned up). This extrajudicial consideration of unrelated matters supports an appearance of bias, especially in the absence of any request from the State.

II. Pattern of Adverse Rulings in Three Cases.

Judge Larson's actions and statements demonstrate a pattern of bias that warrants disqualification. This pattern, occurring within a concentrated period (February 11 to March 13, 2026), creates an objective appearance that the Court has developed a generalized suspicion of defense counsel's work product, none of which is based on record evidence and which the defense has had no opportunity to address or be heard on.

The following table highlights this pattern and negative impact on the process:

⁵ See Stroup Order Doc. 48 p. 1:19-20.

Pattern of Adverse Rulings in Three Cases			
Case	Date	Defense Action	Court Action
<i>Stroup</i> (DC-24-575)	Feb 9, 2026	Pretrial motions filed (Doc. 36), State's response on the merits without objection or request to strike (Doc. 44)	Trial vacated; Order to Show Cause pending; filing rejected March 13
<i>Stroup</i> (DC-24-575)	Feb 19, 2026	Corrected motion with 3(G) cert (Doc. 43), State's response on the merits without objection or request to strike (Doc. 45)	Rejected March 13
<i>Bolich</i> (DC-25-473)	Mar 11, 2026	Pretrial motions filed (Doc. 18)	Order of Rejection citing <i>Stroup</i> case
<i>Buyce</i> (DC-25-341)	Mar 11, 2026	Pretrial motions filed (Doc. 25)	Order of Rejection citing <i>Stroup</i> case
<i>Stroup</i> (DC-24-575)	Mar 13, 2026	Pretrial motions: motion to dismiss (Doc. 35); pretrial motions on evidence (Doc. 36); corrected motion to dismiss (Doc. 43); motion to strike (Doc. 41)	All rejected, including corrected versions, without request from State

An objective observer could find this pattern across multiple proceedings, involving one defense attorney, as giving rise to the appearance of bias. The *Stroup* record reflects that after the erroneous February 9 filing there, defense counsel immediately notified the State, moved to strike the filing, filed a corrected motion with a Local Rule 3(G) certification, and the State then responded to that corrected filing on the merits without objecting on AI grounds.

In *Bolich* the State filed extensive substantive merits briefing and did not object to Bolich's motions on the basis of AI use. Even so, the Court sua sponte rejected Bolich's filing and explicitly tied it to *Stroup*. That sequence gives rise to an objective concern that the Court's suspicion about counsel, first inflamed by the *Stroup* filing issue, carried over into *Bolich* even though the State had not sought the same relief on the same grounds. A reasonable observer

could question whether the Court had begun “keeping score” across cases involving the same lawyer rather than addressing each defendant’s filings independently.

Disqualification is required in “situations in which the “judge has a personal bias or prejudice concerning a party or a party’s lawyer [..]” *Strang*, 2017 MT 217 at ¶ 21 (cleaned up), citing M. C. Jud. Cond., Rule 2.12(A)(1). That is the situation here.

III. The Order Ignores Defense Counsel’s Responsive Certified Filing.

On March 5, 2026, defense counsel filed a Combined Reply Brief in Support of Pretrial Motions and Opposition to State’s Emergency Motion to Strike (Doc. 23). This filing contained a full Local Rule 3(G) certification stating:

Pursuant to Local Rule 3G, the undersigned certifies that Generative Artificial Intelligence was used in the preparation of this document. Counsel utilized Lexis Protégé, a legal-specific generative AI tool, to conduct preliminary research and verify legal authority. All citations and legal propositions have been verified by human counsel. The undersigned further certifies that they have checked the accuracy of any portion of the document assisted by the tool, including all citations, and legal authority.

The State responded to Bolich’s initial filing on the merits (Docs. 21 and 22) without objecting to it on the basis of artificial intelligence. The State’s comprehensive responses addressing surveillance video, witness statements, medical photographs, and background relationship evidence demonstrate that the State fully understood what evidence Mr. Bolich sought to exclude.

Despite this, the Court rejected Mr. Bolich’s pretrial motions based on deficiencies “consistent with reliance on undisclosed GenAI in violation of Mont. 4th Jud. Dist. Loc. R. 3G” even though the state did not raise that issue and the defense counsel had filed a reply and response brief with full Rule 3(G) certification that complied with the local rule.

This failure to distinguish the filings demonstrates that the Court is not evaluating filings on their merits, but through a lens of suspicion directed at defense counsel personally.

IV. Evidence of Judicial Bias.

Under Rule 2.12(A)(1) of the Montana Code of Judicial Conduct, a judge shall disqualify himself or herself in any proceeding in which “the judge has a personal bias or prejudice concerning a party or a party’s lawyer.” The standard is objective: whether a reasonable person, knowing all the relevant facts, would doubt the judge's ability to remain impartial. *Strang*, 2017 MT 217, ¶ 22, citing Montana Code of Judicial Conduct, Rule 2.12(A); *Reichert v. State*, 2012 MT 111, ¶ 50.

A reasonable observer, aware that the Court has: taken judicial notice of filings in an unrelated case (*Stroup*) as part of its rationale for rejecting Mr. Bolich’s pretrial motions; issued rejection orders in three separate cases within one month, all involving the same defense counsel; failed to distinguish between an uncertified filing and a corrected filing with full Rule 3(G) certification; and rejected pretrial motions based on alleged GenAI violations even after defense counsel provided the required certification, would reasonably question whether Mr. Bolich’s filings are being evaluated solely on their legal and factual merits, or instead through the lens of the Court’s strongly expressed negative view of his attorney based on events in other cases.

The Bolich Order of Rejection did not simply note missing factual detail. It went further and stated that the filing defects were “consistent with reliance on undisclosed GenAI.” That is a serious insinuation about counsel’s candor and compliance with court rules. Yet the order identifies no evidence establishing undisclosed AI use in the Bolich filing. More importantly, not once did the State ask for rejection based on use of GenAI.⁶ Unsolicited statements that grant

⁶ Out of an abundance of caution and to strictly comply with the 10-day deadline set forth in the Court’s March 11, 2026, Order of Rejection (Doc. 24), Defendant is concurrently filing Replacement Pretrial Motions. This filing is submitted to cure the procedural defects identified by the Court in the original February 11, 2026, filings (Doc. 18). By concurrently re-filing this replacement motion, Defendant ensures full procedural compliance while preserving Mr. Bolich’s substantive constitutional and statutory claims for review on the merits by the newly assigned judge.

unrequested relief “cast serious doubt on the appearance of justice.” *State v. Rambold*, 2014 MT 116, ¶ 22. “Under these circumstances’ “reassignment to a new judge is necessary to preserve the appearance of fairness and justice in this matter.” *Rambold* at ¶ 22. The Court’s description of defense counsel’s use of generative artificial intelligence (GenAI) as “inept” and overall level of practice as “unacceptable” in the *Stroup* order, which it inextricably bound to the *Bolich* case through its judicial notice, goes beyond the bounds of impartial judicial commentary, especially when it is issued without any pending motion raising such issues.

Whether or not the Court was ultimately correct to reject the *Bolich* filing for lack of detail, the jump from inadequate factual development to suspected undisclosed GenAI use gives the ruling a punitive and personal character that goes beyond ordinary case management. A reasonable observer could see that language as reflecting a preconceived distrust of counsel rather than a neutral assessment of the filing itself.

V. Prejudice to Mr. Bolich.

Mr. Bolich faces felony aggravated assault charges that carry a potential sentence of up to 20 years in the Montana State Prison and a \$50,000 fine. He has been released on his own recognizance to pretrial services and is scheduled to begin his jury trial on April 24, 2026. The Court’s rejection of his pretrial motions based on cross-case references to unrelated proceedings involving his attorney, combined with the failure to distinguish responsive, certified filings from initial filings, creates structural bias that cannot be corrected on appeal from the final judgment.

These are rulings that will affect jury selection, substantive rulings on the motions if they are re-filed, and the entire trial process going forward. The appearance that the Court has prejudged defense counsel’s competence and credibility makes it impossible for Mr. Bolich to receive a fair trial before an impartial tribunal.

Even if Judge Larson subjectively believes he can be fair, the appearance of partiality itself violates due process. As the United States Supreme Court held in *Caperton*, the Due Process Clause requires recusal when “circumstances create an objective probability of actual bias that is too high to be constitutionally tolerable,” even absent proof of actual bias. *Caperton*, 556 U.S. 868, 877.

Here, the circumstances create an intolerable risk that Mr. Bolich’s pretrial motions and trial will not receive fair consideration because the Court views defense counsel’s work product with suspicion based on events in other cases, and did so in a manner that conflates separate defendants and separate proceedings.

Montana Code of Judicial Conduct Rule 1.2 provides: “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety *and the appearance of impropriety*.” (emphasis added).

The Court’s pattern of rulings, combined with the cross-case references, creates a public appearance that the Court is tracking defense counsel’s work across multiple cases and treating her clients collectively rather than individually. This appearance undermines public confidence in the fairness of the proceeding and the judiciary as a whole.

VI. Immediate Disqualification Required

This motion is not aimed at correcting an ordinary legal error after final judgment. The concern is structural and present now. If the Court’s impartiality toward counsel can reasonably be questioned, that concern affects every future stage of the case: pretrial rulings, evidentiary calls, trial management, and any later merits determinations.

Montana law recognizes that judicial disqualification protects public confidence in the fairness of proceedings, not merely the correctness of particular rulings. Where the concern is

that a judge appears biased toward a party's lawyer, requiring a defendant to proceed to trial before raising the issue would defeat the purpose of Rule 2.12 and § 3-1-805. *Rambold*, 2014 MT 116, ¶ 21, citing *Washington v. Montana Mining Properties*, 243 Mont. 509, 516, 795 P.2d 460, 464 (1990). Accord the non-cite opinion *State v. Kelsey*, 2025 MT 173N ¶ 14 (remand to a new judge appropriate where it would be difficult for a judge to put previously expressed views out of mind), citing *State v. Smith*, 261 Mont. 419, 445, 863 P.2d 1000, 1016 (1993).

The Montana Supreme Court has accepted supervisory control to decide a substitution of judge question under § 3-1-804, MCA, in part because “allowing the matter to proceed may cause uncertainty as to the validity of the District Court judge's involvement and decisions in this matter.” *Draggin Y Cattle Co. v. Junkermier*, 2017 MT 125, ¶ 39, 387 Mont. 430, 443, 395 P.3d 497, 505, citing *Goldman Sachs Group, Inc. v. Mont. Second Judicial District Ct.*, 2002 MT 83, ¶ 8, 309 Mont. 289, 46 P.3d 606.

In *Draggin Y* the Court noted that immediate appeals of substitution orders are allowed under M. R. App. P. 6(3)(k) (allowing immediate appeal in a civil case of an order granting or denying a motion for substitution of judge) and M. R. App. P. 14(3)(c) (supervisory control over a motion for substitution of a judge in a criminal case). *Id.* ¶ 39. This supports disqualification of Judge Larson, given that pretrial motions must be decided, a jury selected, and a trial remains pending. Disqualification now is the only path to ensure justice is served and judicial resources are not squandered.

Mr. Bolich is entitled to a tribunal that is impartial, and also appears impartial to a reasonable member of the public. Given the Court's cross-case references, pattern of rejection orders, and failure to distinguish corrected filings, recusal is required under Rule 2.12(A)(1) to remove any reasonable doubt about the Court's neutrality and to safeguard Mr. Bolich's right to

a fair trial.

CONCLUSION

Mr. Bolich's constitutional right to a fair trial before an impartial tribunal cannot be vindicated in a proceeding where the Court has taken judicial notice of events in unrelated cases involving his attorney and used those events as part of its rationale for rejecting his pretrial motions.

The cumulative effect of the Court's actions demonstrates that disqualification is necessary to ensure a fair and impartial trial. That cumulative effect includes cross-case judicial notice, a pattern of rejection orders within a one-month period, failure to distinguish corrected certified filings, and the appearance of tracking defense counsel's work across multiple cases.

RELIEF REQUESTED

Mr. Bolich respectfully requests that this Court:

1. Disqualify the Honorable John W. Larson from presiding over this matter pursuant to Mont. Code Ann. § 3-1-805 and Montana Code of Judicial Conduct Rule 2.12.
2. Refer the matter to the Chief Justice of the Montana Supreme Court for assignment of a different district judge pursuant to § 3-1-805(1).
3. Stay all proceedings in this matter pending assignment of a new judge.
4. Direct the newly assigned judge to consider Defendant's Pretrial Motions (Doc. 18) and Combined Reply Brief in Support of Pretrial Motions and Opposition to State's Emergency Motion to Strike (Doc. 23) on the merits without prejudice from the prior rejection.
5. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 23rd day of March 2026.

/S/MONICA TRANEL

Uniform District Court Rule 2(A) Statement

Counsel for Defendant contacted counsel for the State, Deputy County Attorney William Haney, who stated that he opposes this motion.

CERTIFICATION PURSUANT TO LOCAL RULE 3(G)

Pursuant to Local Rule 3(G), the undersigned certifies that Generative Artificial Intelligence was used in the preparation of this document as follows: Counsel utilized Lexis Protégé, a legal-specific generative AI tool, to conduct preliminary research and verify legal authority. All citations and legal propositions have been verified by human counsel. The undersigned further certifies that they have checked the accuracy of any portion of the document assisted by the tool, including all citations, and legal authority.

/S/MONICA TRANEL

CERTIFICATE OF SERVICE

I, Monica Tranel, hereby certify that I have served true and accurate copies of the foregoing Motion - Motion to Disqualify to the following on 03-23-2026:

William Pearson Haney (Govt Attorney)
200 W. Broadway
Missoula MT 59802
Representing: State of Montana
Service Method: eService

Electronically Signed By: Monica Tranel
Dated: 03-23-2026