

1 CASE NO. A-20-822640-C

2 DEPT. NO.

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6 **IN THE SIXTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF HUMBOLDT**

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9 ALICIA ADAMS, et al,

10 Plaintiffs,

11 vs.

ORDER OF RECUSAL

12 CRYSTAL ELLER, et al,

13 Defendants.

14 _____ /
15 GOOD CAUSE APPEARING, and in the interest of justice, the undersigned does
16 hereby **RECUSE** himself from serving as the presiding Judge over the above-entitled
17 matter.

18 On February 15, 2024, Plaintiffs, Alicia Adams, et al, by and through their attorney
19 of record, Theresa Mains, Esq., moved to disqualify the Honorable Michael R. Montero
20 pursuant to NRS 1.235 and the Nevada Code of Judicial Conduct.

21 HAVING REVIEWED the pleading, and with much indignation, Judge Montero
22 elects to recuse himself, as follows:

23 This case was assigned to the Hon. Judge Montero on or about July 19, 2021 by the
24 Chief Judge of the Eighth Judicial District Court. Plaintiffs attest that "Nothing else was
done by the [Eighth Judicial District Court] regarding this assignment of the case to Judge



1 Montero. There also were no instructions or directions to the litigants.” Plaintiff’s Motion
2 to Disqualify at 11, *Adams v. Eller*, Case No. A-20-822640-C (February 15, 2024).

3 Absurdly, the parties in this case have made meager attempts to communicate with
4 Judge Montero and his staff since reassignment to streamline this case and ensure that it is
5 effectively heard. The parties have been on notice that Judge Montero prefers paper copies
6 of each and every filing so that a casefile can be appropriately assembled for Judge
7 Montero’s review. Nevertheless, paper copies continued to not be sent to Judge Montero
8 by the Clark County Clerk, and Judge Montero’s casefile remained incomplete.

9 The parties requested hearings on filings that Judge Montero never received. Judge
10 Montero will not enter an order or set a hearing without complete filings. Thus, no hearings
11 were ever set.

12 There were several attempts by the Clark County Clerk and Judge Montero and his
13 staff to set up access to the casefile in real-time. The Clark County Clerk provided a link
14 to its e-filing system for access to the filings and/or to print the filings. However, these
15 links never functioned properly and court staff has been unable to access the file. Judge
16 Montero informed the parties and the Clark County Clerk that he was not interested in
17 electronic files, and any and all filings must be promptly mailed to the Court.

18 To address this reoccurring issue, Judge Montero entered an Order directing the
19 Clark County Clerk to send a paper copy of the file via mail to Judge Montero on February
20 2, 2023. The Court received a paper copy of the file on or about February 8, 2023, and was
21 on notice of the motions that had been filed up to that date, including a motion for
22 reconsideration of its Order regarding security bonds.

23 Three (3) additional motions were filed after Judge Montero’s receipt of the paper

1 file, including a *Motion for Order to Show Cause* against Theresa Mains filed by Defendant
2 Eller on February 16, 2023, an *Application for Default Judgment* against Eller filed by
3 Plaintiffs on March 13, 2023, and an *Application for Default Judgment* against Hickoff
4 filed by Plaintiffs on March 14, 2023. These motions and applications were not sent to
5 Judge Montero via US Mail by the Clark County Clerk, nor did they appear ripe for review
6 (had not been fully briefed and submitted). Thus, no action was taken at that time.

7 Judge Montero then promptly reviewed the motion for reconsideration, and,
8 inclined to rule in Defendant Eller's favor,¹ directed Defendant Eller to prepare a proposed
9 order. This practice—directing parties of fully briefed and submitted motions to prepare
10 proposed orders for review—is purely administrative in nature and is a matter of judicial
11 preference that in no way discusses the substantive issues of the case, does not give a party
12 any procedural, substantive, or tactical advantage, and the opposing party is not left without
13 an opportunity to be heard because they fully participated in briefing the issue(s) before
14 the court. Nevada Code of Judicial Conduct, Canon 2, Rule 2.6, 2.9. *Any* proposed order is
15 reviewed thoroughly and edited to conform with Judge Montero's rulings, duly entered
16 with the Clerk, and the parties are notified of the entry and may move for reconsideration
17 or amendment if necessary.

18 The Court is unaware of any law or rule of ethics mandating an administrative
19 request for a proposed order be communicated to all parties. It is also not uncommon for
20 parties to submit proposed orders with their briefs. Plaintiffs' accusation that Judge
21 Montero acted in bad faith and is somehow biased or in violation of the Judicial Code of
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23 ¹ Of which was not communicated to defense counsel. Plaintiffs' Motion to Disqualify, *supra*, at Exhibit 1 (February
24 15, 2024).

1 Conduct for this administrative practice is beyond belief.

2 Not to mention, the result of Judge Montero entering the two proposed orders²
3 received from defense counsel is effectually moot, because Plaintiffs dismissed certain
4 Defendants, including Eller, without prejudice on March 22, 2023. Judge Montero had *no*
5 *notice* of this voluntary dismissal because a paper copy was never sent by the Clark County
6 Clerk via mail. Otherwise, these orders would have never been entered. This particular
7 error and miscommunication is only one example of what a procedural and substantive
8 mess that this case has become since reassignment, solely attributable to the fact that Judge
9 Montero has never consistently received a complete, up-to-date paper file from the Clark
10 County Clerk, in addition to the parties' feeble efforts to communicate with Judge Montero
11 and his staff to streamline this case.

12 Significantly, the parties have been radio silent with respect to this case since
13 approximately May 2023, when Judge Montero and his staff were still attempting to
14 retrieve an updated paper copy of the file from the Clark County Clerk. Now, Judge
15 Montero is blindsided with a motion to disqualify making repugnant accusations of bad
16 faith, bias and impartiality, and *ex parte* communication in violation of the Judicial Code.
17 This action by Plaintiffs, forgoing any common courtesy to contact Judge Montero and his
18 staff to resolve the replete communication issues herein, is not only frustrating, but outright
19 insulting.

20 Accordingly, Judge Montero does hereby recuse himself from presiding over this
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23 ² *Order Granting Defendant Eller's Motion to Reconsider Order Waiving Security Bonds and Denying Demands for*
24 *Security Bonds; and Order Denying Plaintiff's Motion for Equitable Relief from Security Bonds Demanded by*
Defendant Eller, both entered on April 19, 2023.

1 matter. The lack of communication by the parties and the failure to receive prompt updates
2 and filings has resulted in Judge Montero's inability to effectively hear this case, interfering
3 with Judge Montero's duty to perform judicial and administrative responsibilities
4 competently and diligently. Nevada Code of Judicial Conduct, Canon 2, Rule 2.5.
5 Consequently, Plaintiffs' motion to disqualify is moot, and Judge Montero declines to
6 transfer this case and file a written answer challenging the alleged bias or prejudice.

7 Therefore, pursuant to the Code of Judicial Conduct Rule 2.5, Judge Montero does
8 recuse himself from presiding over this matter and respectfully asks the Eighth Judicial
9 District Chief Judge to reassign this case to a different judge for all further proceedings.

10 **IT IS SO ORDERED.**

11 DATED this 16th day of February, 2024.

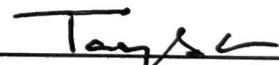
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14 HONORABLE MICHAEL R. MONTERO
15 DISTRICT JUDGE

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CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Honorable Michael R. Montero, District Court Judge, Sixth Judicial District Court and am not a party to, nor interested in, this action; and that on this 16th day of February, 2024 I caused to be served a true and correct copy of the enclosed ORDER OF RECUSAL upon the following parties:

Theresa Mains, Esq. Jeffrey J. Whitehead, Esq. 6980 O'Bannon Drive Las Vegas, NV 89117 <i>Via US Mail</i>	Eighth Judicial District Court, Dept. 30 Chief Judge Jerry A. Wiese II 200 Lewis Ave Las Vegas, NV 89101 <i>Via US Mail</i> <i>Via email:</i> <i>Dept30LC@clarkcountycourts.us</i>
Anthony P. Sgro, Esq. Alanna C. Bondy, Esq. SGRO & ROGER 720 S. 7 th Street, Third Floor Las Vegas, NV 89101 <i>Via US Mail</i>	Eighth Judicial District Court Clerk 200 Lewis Ave Las Vegas, NV 89101 3 rd Floor <i>Via US Mail</i>
Trevor J. Hatfield, Esq. 703 South Eighth Street Las Vegas, NV 89101 <i>Via US Mail</i>	


 TAYLOR M. STOKES, ESQ.
 STAFF ATTORNEY
 SIXTH JUDICIAL DISTRICT COURT