

1       **Rule 63. Disability or disqualification of a judge.**

2       (a) **Substitute judge; Prior testimony.** If the judge to whom an action has been  
3 assigned is unable to perform the duties required of the court under these rules, then  
4 any other judge of that district or any judge assigned pursuant to Judicial Council rule is  
5 authorized to perform those duties. The judge to whom the case is assigned may in the  
6 exercise of discretion rehear the evidence or some part of it.

7       (b) **Disqualification.**

8               (b)(1)(A) A party to any action or the party's attorney may file a motion to  
9 disqualify a judge. The motion shall be accompanied by a certificate that the  
10 motion is filed in good faith and shall be supported by an affidavit stating facts  
11 sufficient to show bias, prejudice or conflict of interest.

12              (b)(1)(B) The motion shall be filed after commencement of the action, but not  
13 later than 20-21 days after the last of the following:

14                      (b)(1)(B)(i) assignment of the action or hearing to the judge;

15                      (b)(1)(B)(ii) appearance of the party or the party's attorney; or

16                      (b)(1)(B)(iii) the date on which the moving party learns or with the exercise  
17 of reasonable diligence should have learned of the grounds upon which the  
18 motion is based.

19              If the last event occurs fewer than 20-21 days prior to a hearing, the motion shall  
20 be filed as soon as practicable.

21              (b)(1)(C) Signing the motion or affidavit constitutes a certificate under Rule 11  
22 and subjects the party or attorney to the procedures and sanctions of Rule 11. No  
23 party may file more than one motion to disqualify in an action.

24              (b)(2) The judge against whom the motion and affidavit are directed shall, without  
25 further hearing, enter an order granting the motion or certifying the motion and  
26 affidavit to a reviewing judge. The judge shall take no further action in the case until  
27 the motion is decided. If the judge grants the motion, the order shall direct the  
28 presiding judge of the court or, if the court has no presiding judge, the presiding  
29 officer of the Judicial Council to assign another judge to the action or hearing. The  
30 presiding judge of the court, any judge of the district, any judge of a court of like

31 jurisdiction, or the presiding officer of the Judicial Council may serve as the  
32 reviewing judge.

33 (b)(3)(A) If the reviewing judge finds that the motion and affidavit are timely  
34 filed, filed in good faith and legally sufficient, the reviewing judge shall assign  
35 another judge to the action or hearing or request the presiding judge or the  
36 presiding officer of the Judicial Council to do so.

37 (b)(3)(B) In determining issues of fact or of law, the reviewing judge may  
38 consider any part of the record of the action and may request of the judge who is  
39 the subject of the motion and affidavit an affidavit responsive to questions posed  
40 by the reviewing judge.

41 (b)(3)(C) The reviewing judge may deny a motion not filed in a timely manner.  
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