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

6 (b) **Disqualification.**

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

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

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

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

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

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

19 (b)(1)(C) Signing the motion or affidavit constitutes a certificate under Rule 11 and subjects the party  
20 or attorney to the procedures and sanctions of Rule 11. No party may file more than one motion to  
21 disqualify in an action, unless the second or subsequent motion is based on circumstances that did not  
22 exist at the time of the earlier motion.

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

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

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

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