CIVIL

Pre-Trial Decision

31. **Disqualifying Counsel**

The well-established common law rule is that recusal is required when a judge has a direct, personal, substantial, or pecuniary interest in a case. "In Montana, such matters are addressed and governed by the 2008 Montana Code of Judicial Conduct. And '[b]ecause the codes of judicial conduct provide more protection than due process requires, most disputes over disqualification will be resolved without resort to the Constitution. Application of the constitutional standard . . . will thus be confined to rare instances.'" Montana's Code of Judicial Conduct Rule 2.12 requires that a judge disqualify himself "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, or personal knowledge of facts that are in dispute in the proceeding." A judge shall also disqualify himself if the judge "served as a lawyer in the matter in controversy."

Bullman v. State, 2014 MT 78, ¶ 14, 374 Mont. 323, 321 P.3d 121 (citations omitted).