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| DISTRICT COURT, JEFFERSON COUNTY, COLORADO 100 Jefferson County Parkway Golden, Colorado 80401 Telephone: (303) 271-6130 | |
| In re the Marriage of: Petitioner: CHRISTY HARRINGTON, n/k/a CHRISTY RYAN and Respondent: SEAN L. HARRINGTON | |
| Sean Harrington, <i>Pro Se</i> 197M Boston Post Road, West Suite #151 Marlborough, MA 01752 | ↑ COURT USE ONLY ↑ Case Number: 99DR3717 Jefferson County Case No. 30-192795-44-8A |
| SUPPLEMENT / CLARIFICATION TO VERIFIED COMBINED MOTION FOR SUBSTITUTION OF JUDGE | |

COMES NOW, Sean Harrington, pursuant to C.R.C.P. §§97, 98(g) & 60(b) to submit the within Supplement to Verified Combined Motion for Substitution of Judge and in support thereof, states as follows:

1. On or about the 15th of August, 2004, the Respondent (“Harrington”) filed a Motion for Substitution of Judge, Change of Venue and for Evidentiary Hearing, which Harrington herewith requests this court to take **Judicial Notice**¹ of.

2. Although the Motion designated the relief requested in Paragraph 2, thereto, and stated certain relief to be granted by the, “**Judge appointed to replace Judge Tidball,**” the order in which the relief was requested within that sentence may have been ambiguous and may have appeared to seek relief other than recusal from Judge Tidball (namely, change of venue). Where a party seeks to disqualify a judge for bias and prejudice, and at the same time asks for affirmative relief by motion for a change of venue, appearance before such judge for any other purpose than to question his authority to act, waives the right to object to his authority. Aaberg v. District Court, 136 Colo. 525, 319 P.2d 491 (1957). Harrington does **not** waive his right to object to Judge Tidball’s authority and, so therefore, offers the within supplementary clarification. Harrington seeks the following and **sole** re-

¹ A court may take Judicial Notice of any matters in its own records and files. Sakal v. Donnelly, 30 Colo. App. 384, 494 P.2d 1316 (1972).

lief from Judge Tidball: recusal. Harrington seeks the following relief from the Judge assigned to replace her: (1) change of venue; and (2) an evidentiary hearing for issues that were raised that are within the trial court's present jurisdiction, if any, and, for those that are on appeal, insofar as the District Court is divested of jurisdiction, Harrington requests an Order granting a stay for the Motion for evidentiary hearing, to be promptly resumed once the Court of Appeals has issued its mandate.

3. Further, because the issues raised by Harrington's aforementioned motion are of significant public importance, Harrington requests that the relief requested of the Judge appointed to replace Judge Tidball be not limited to that requested therein and that any other such relief, which may be appropriate under the circumstances, be granted. See Regennitter v. Fowler, 132 Colo. 489, 290 P.2d 223 (1955) ("The question, therefore, is not whether a party has asked for the proper remedy, but whether under his pleadings he is entitled to any remedy.") In re Legislative Reapportionment, 150 Colo. 380, 374 P.2d 66 (1962) ("If the allegations of the petition are such as to invoke both the jurisdiction of the court and to entitle the petitioner, on the face thereof, to some relief, the mere fact that one misconceives his remedy will not deprive the court of jurisdiction to act.")

WHEREFORE, Harrington requests that Judge Jane Tidball be disqualified from the case at bar, that the case be transferred by the Judge appointed to replace Judge Tidball to a county removed from where Wilson ordinarily practices and that the allegations set forth herein relating to Ryan & Wilson be set for an evidentiary hearing by the Judge appointed to preside over the case in the new county.

CERTIFICATE OF MAILING

I hereby certify that on the ___ day of August, 2004, I mailed a true and accurate copy of the foregoing Verified Combined Motion via pre-paid first class mail addressed as follows:

Jefferson County District Court
100 Jefferson County Parkway
Golden, CO 80401

Jefferson County D.S.S.
Attn: Kerin Dyer
Human Services Facility
900 Jefferson County Parkway
Golden, Colorado 80401-6010

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