



Judicial Standards Commission State of Montana

COMPLAINT

The undersigned being first duly sworn, upon oath, states the following facts showing misconduct on the part of the following named judge, to-wit:

NAME OF JUDGE: Justice Ingrid Gustafson

ADDRESS: 215 N Sanders

Helena, MT 59601

Based on the attached Code of Judicial Conduct, please cite which Canon(s) you feel the judge has violated and why. If you cannot clearly identify which canon the judge has violated, then your complaint is not within the purview of this Commission to review.

The facts of the above Judge's misconduct or unethical conduct are as follows: (Please state in your own words the misconduct or unethical conduct of the judge. Provide information as to when and where the misconduct occurred, and the names of any other people involved.)

See Attached

(If more space is needed, you may attach additional sheets to this complaint and mark them a, b, c, etc.)

The names and addresses of other persons who are witnesses to or have information as to the misconduct of the above judge are:

See Attached

NAME: _____

ADDRESS: _____

PHONE NO: _____

NAME: _____

ADDRESS: _____

PHONE NO: _____

(Names of additional witnesses may be listed on a separate sheet and attached.)

I (have ____ / have not ____) contacted the judge in regard to my complaint.

I will furnish additional information to your Commission if requested. If the complaint is investigated, I will cooperate with your Commission and furnish the evidence I may have and I will testify at any hearing on this complaint.

My full name, address and telephone number is:

NAME: Jake Eaton

ADDRESS: PO Box 81724

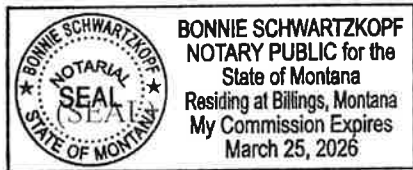
Billings, MT 59108

PHONE #: 406-233-9121

DATED this 14 day of October, 2022

[Signature]
SIGNATURE

SUBSCRIBED AND SWORN TO before me this 14th day of Oct, 2022



[Signature]
Notary Public for the State of Montana
Residing at Billings
My Commission expires March 25, 2026

RETURN TO:

SHELLY SMITH, EXECUTIVE SECRETARY
JUDICIAL STANDARDS COMMISSION
PO BOX 203005
301 S. PARK, SUITE 328
HELENA, MT 59620-3005

Attachment A

Justice Ingrid Gustafson has violated the Montana Code of Judicial Conduct by failing to recuse herself and participating in the case of McDonald et al V. Jacobsen, case number DA 22-0229, when at least two of the Plaintiffs in the case had endorsed her campaign, and her campaign actively promoted the endorsements.

Facts

1. Mae Nan Ellingson is a listed Plaintiff in case number DA 22-0229.
2. Bob Brown is a listed Plaintiff in case number DA 22-0229.
3. Justice Gustafson ruled in favor of the Plaintiffs in case number DA 22-0029.
4. On her campaign website, Justice Gustafson lists the endorsement of Mae Nan Ellingson (Exhibit 1) and Bob Brown (Exhibit 2).
5. During the litigation, Justice Gustafson did not disclose that she had received and was actively promoting the endorsement of Mae Nan Ellingson and/or Bob Brown as part of her re-election campaign.

Violations of Montana Code of Judicial Conduct

- Rule 1.1 – By failing to recuse herself from the case in question, and therein committing violations of the Code of Judicial conduct, Justice Gustafson has violated Rule 1.1 which states, “A judge shall comply with the law, including the Code of Judicial Conduct.”
- Rule 1.2 – By failing to recuse herself from this case or even disclose that she had received and was actively using the endorsement of parties to a case on which she sat to benefit her campaign, Justice Gustafson has violated Rule 1.2 which states, “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety* and the appearance of impropriety.” It is simply undeniable that, at the absolute minimum, an appearance of impropriety existed in this case. Justice Gustafson was actively promoting the endorsement of these individuals to enhance her political prospects while simultaneously ruling in their favor on a case in front of her.
- Rule 1.3 – By refusing to recuse herself from this case or even disclose that she had received and was actively using the endorsement of parties to a case on which she sat to benefit her campaign, Justice Gustafson has violated Rule 1.3 which states, “a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.” Comment 1 notes

that, "It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind." Yet, this is exactly what Justice Gustafson has done. She has used her position on the Court to produce an outcome desired by individuals that had endorsed her campaign for re-election, she then is promoting the endorsements of these individuals to give credibility to her campaign.

- Rule 2.2. – By refusing to recuse herself from this case or even disclose that she had received and was actively using the endorsement of parties to a case on which she sat to benefit her campaign, Justice Gustafson has violated Rule 2.2 which states "A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially." Any reasonable observer would surmise that it is simply impossible to hold Justice Gustafson's actions as fair or impartial when considering the case in question was brought by individuals that had not only endorsed her campaign, but that she was actively promoting the endorsement for her own political benefit.
- Rule 2.12.A.4 – By refusing to recuse herself from this case or even disclose that she had received and was actively using the endorsement of parties to a case on which she sat to benefit her campaign, Justice Gustafson has violated Rule 2.12 which states, "A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned." Clearly, Justice Gustafson's impartiality in ruling in a case in which individuals who had endorsed her campaign could reasonably be questioned. Any reasonable observer would hold that a clear conflict exists in a case brought by individuals whose endorsement the Judge is using to benefit their own political prospects. Despite these exact circumstances existing, Justice Gustafson refused to recuse herself or even disclose the nature of this relationship.

Discussion

This case is simply outrageous; Justice Gustafson blatantly disregarded her ethical obligations in hopes of achieving a desired outcome for her political supporters and bettering her own political prospects. If the people of Montana cannot count on a member of the Supreme Court to recuse themselves in a case with such a clear and obvious conflict of interest, then they can have no confidence in the integrity and independence of the judiciary in any case.

Justice Gustafson's brazenly unethical conduct in this case is exactly why these rules were put in place, to avoid not only actual impropriety, but even the appearance of impropriety, so that the public can have faith in the integrity and independence of the judiciary. Here, Justice Gustafson is simultaneously ruling in favor of these individuals and promoting their endorsement of her to boost her own political prospects.

Throughout her re-election campaign, Justice Gustafson has been closely aligned with the Democrat Party, holding campaign events with many prominent Democrats, including Steve Bullock and Max Baucus. Justice Gustafson likely believes that having the endorsement of a former elected Republican official like Bob Brown would benefit her campaign and help blunt the negative impact of being so closely associated with high-profile Democrats.

Additionally, Justice Gustafson has come under fire in her re-election campaign for her activist judicial philosophy and failure to uphold the Montana Constitution. Justice Gustafson likely believes that having the endorsement of a Constitutional Conventional Delegate like Mae Nan Ellingson would benefit her campaign and help blunt these criticisms of her time on the bench.

It is completely legitimate for Justice Gustafson to seek and utilize political endorsements that she believes will enhance her chances for re-election, so long as they comport with the restrictions laid out in the Code of Judicial Conduct. However, it is completely unacceptable for Justice Gustafson to sit on cases brought by those who not only endorse her campaign, but whose endorsement she is actively promoting to enhance her own political prospects.

Justice Gustafson had the opportunity to do the right thing, but she refused. She could have avoided this conflict by simply recusing herself from this case and continuing to utilize these endorsements to benefit her campaign. The situation created by her refusal to follow her ethical obligations is deeply troubling and raises many questions. Were these endorsements part of a quid pro quo for her ruling? Did she coordinate any activities in this case with these individuals? Did she have any prohibited ex parte communications with these parties?

This Commission has the authority and duty to find that Justice Gustafson has violated her ethical obligations in this case. Given, the egregious nature of these violations, the Commission should sanction Justice Gustafson to the fullest extent possible.

Exhibit 1

Screen capture Justice Gustafson website promoting the Endorsement Mae Nan Ellingson

<https://www.gustafsonformontana.com/endorsements>

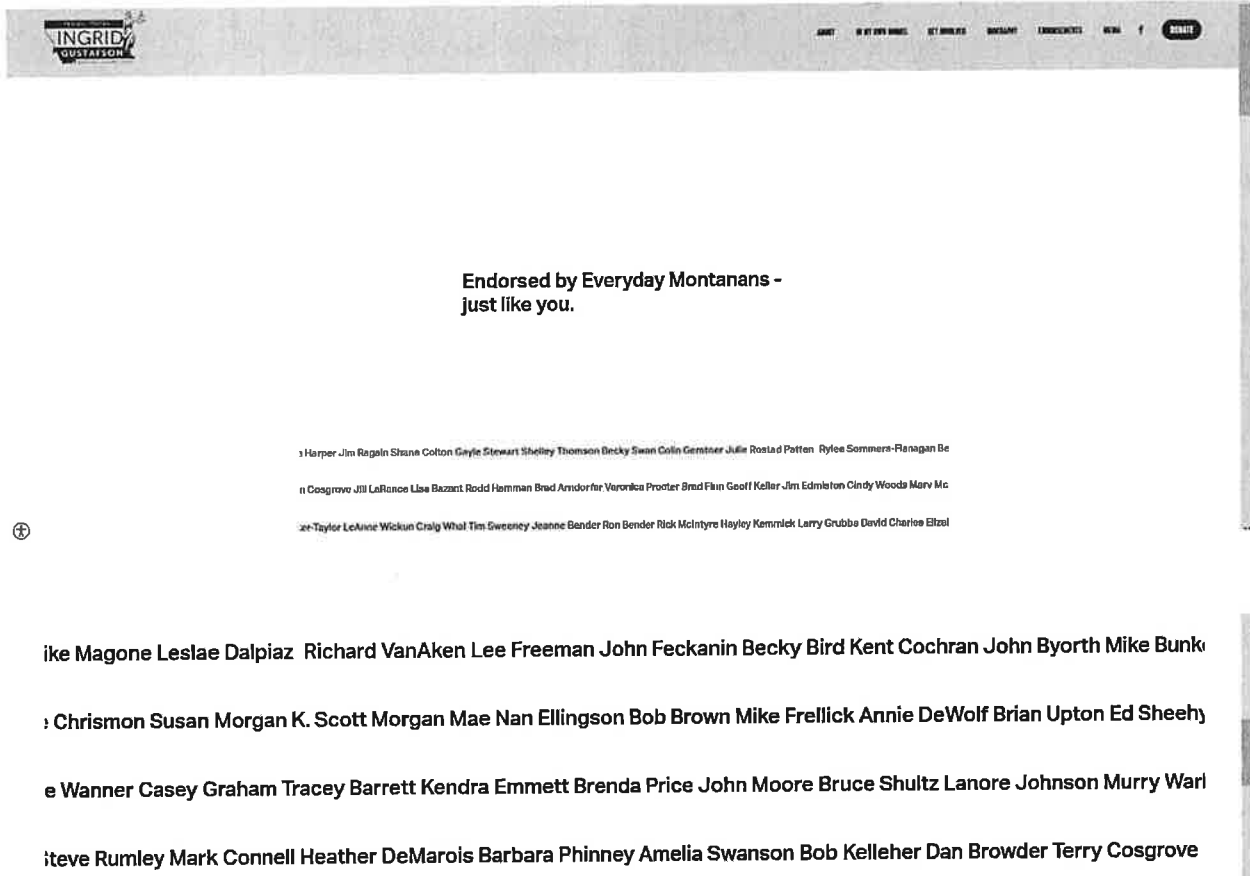
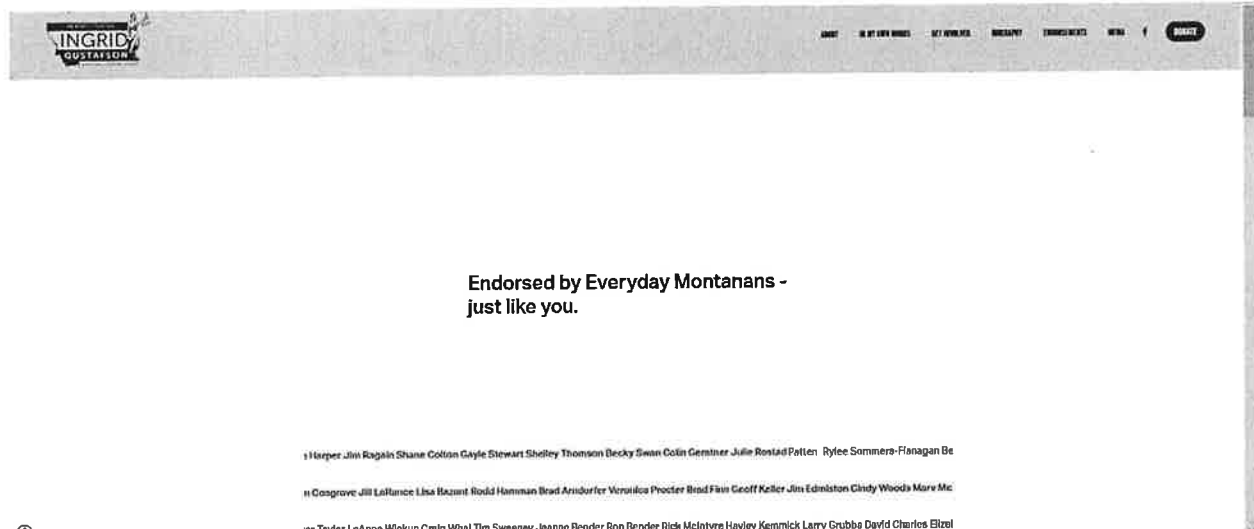


Exhibit 2

Screen capture Justice Gustafson website promoting the Endorsement Bob Brown

<https://www.gustafsonformontana.com/endorsements>



ike Magone, Leslae Dalpiaz, Richard VanAken, Lee Freeman, John Feckanin, Becky Bird, Kent Cochran, John Byorth, Mike Bunk
: Chrismon, Susan Morgan, K. Scott Morgan, Mae Nan Ellingson, Bob Brown, Mike Frellick, Annie DeWolf, Brian Upton, Ed Sheehy
e Wanner, Casey Graham, Tracey Barrett, Kendra Emmett, Brenda Price, John Moore, Bruce Shultz, Lanore Johnson, Murry Warl
iteve Rumley, Mark Connell, Heather DeMarois, Barbara Phinney, Amelia Swanson, Bob Kelleher, Dan Browder, Terry Cosgrove

Attachment B

The names and addresses of other persons who are witnesses to or have information as to the misconduct of the above judge are:

Chief Justice Mike McGrath
215 N Sanders
Helena, MT 59601

Cliff Edwards
1648 Poly Dr #206
Billings, MT 59102
406-215-4735

Justice Jim Rice
215 N Sanders
Helena, MT 59601

James Goetz
35 N Grand Ave
Bozeman, MT 579715

Justice Jim Shea
215 N Sanders
Helena, MT 59601

Mae Nan Ellingson
10055 Grant Creek Rd
Missoula, MT 59808
406-240-0322

Justice Dirk Sandefur
215 N Sanders
Helena, MT 59601

Bob Brown
333 cougar Trail
Whitefish, MT 59937
406-862-6656

Justice Laurie McKinnon
215 N Sanders
Helena, MT 59601

Karen Moses
903 Delphinium Dr
Billings, MT 59102
406-252-2617

Justice Beth Baker
215 N Sanders
Helena, MT 59601

Justice Jim Rice
215 N Sanders
Helena, MT 59601