CIVIL

Pre-Trial Decision

18. **Class Actions**

We review a district court's decision on a motion for class certification for an abuse of discretion. ***Sangwin v. State***, 2013 MT 373, ¶ 10, 373 Mont. 131, 315 P.3d 279 (citing ***Chipman v. N.W. Healthcare Corp.***, 2012 MT 242, ¶ 17, 366 Mont. 450, 288 P.3d 193). The question is not whether this Court would have reached the same decision, but whether the District Court acted arbitrarily without conscientious judgment or exceeded the bounds of reason. ***Sangwin***, ¶ 10 (citation omitted). When reviewing a decision on class certification, we afford the trial court the broadest discretion because it "is in the best position to consider the most fair and efficient procedure for conducting any given litigation." ***Sangwin***, ¶ 10 (citing ***Jacobsen v. Allstate Ins. Co.***, 2013 MT 244, ¶ 25, 371 Mont. 393, 310 P.3d 452).

A court abuses its discretion if its certification order is premised on legal error. ***Mattson v. Mont. Power Co.***, 2012 MT 318, ¶ 17, 368 Mont. 1, 291 P.3d 1209 (citation and quotation marks omitted). Likewise, when a district court's decision is not supported by findings as to the applicability of Rule 23 criteria, it is not entitled to the traditional deference given to determinations of class status. ***Mattson***, ¶ 17 (citation and quotation marks omitted). To the extent that the ruling on a Rule 23 requirement is supported by a finding of fact, that finding, like any other finding of fact, is reviewed under the clearly erroneous standard. And to the extent that the ruling involves an issue of law, review is de novo. ***Jacobsen***, ¶ 25 (citation and quotation marks omitted). Thus, for example, a ruling on numerosity, based on a finding of fact that is not clearly erroneous and with application of a legal standard that is correct, could be affirmed as within allowable discretion, in some circumstances, whether the ruling determined that this Rule 23 requirement was met or not met. ***Mattson***, ¶ 17 (citation and internal quotation marks omitted).

We are particularly reluctant to interfere with discretionary orders in the early stages of litigation. ***Diaz v. State***, 2013 MT 219, ¶ 20, 371 Mont. 214, 308 P.3d 38. Rule 23(c)(1)(C) preserves a trial court's flexibility to modify its certification orders, which are made at an early stage in the case, when the facts are disputed and discovery incomplete. ***Diaz***, ¶ 20.