CIVIL

Pre-Trial Decision

20. **Complaints**

a. **Amendment**

i. The decision to grant or deny a motion to amend lies within the discretion of the district court. **Farmers Coop. Ass'n v. Amsden**, 2007 MT 286, ¶ 12, 339 Mont. 445, 171 P.3d 690. A district court's denial of a motion to amend a pleading is reviewed for abuse of discretion. **Farmers Coop. Ass'n**, ¶ 12; **Smith v. Butte-Silver Bow County**, 266 Mont. 1, 9, 878 P.2d 870, 875 (1994).

b. **Dismissal**

i. A complaint may be dismissed for failure to state a claim. M. R. Civ. P. 12(b)(6); **Snetsinger v. Mont. Univ. Sys.**, 2004 MT 390, ¶ 10, 325 Mont. 148, 104 P.3d 445. The determination that a party has failed to state a claim is a conclusion of law, which is reviewed for correctness. **Snetsinger**, ¶ 11. When reviewing an order dismissing a complaint under Rule 12(b)(6), this Court construes the complaint in the light most favorable to the plaintiffs. **Jones v. Mont. Univ. Sys.**, 2007 MT 82, ¶ 15, 337 Mont. 1, 155 P.3d 1247.

ii. A complaint may be dismissed for failure to comply with the rules or a court order. M. R. Civ. P. 41(b). Dismissal under Rule 41(b) is a harsh remedy, and district courts should refrain from its application unless there is no other adequate remedy available. **Nystrom v. Melcher**, 262 Mont. 151, 155, 864 P.2d 754 (1993). Despite this caution, the decision to dismiss under Rule 41(b) is within the discretion of the district court and is reviewed for abuse of discretion. **Nystrom**, 262 Mont. at 156, 864 P.2d at 757.