CIVIL

Pre-Trial Decision

22. **Constitutionality of Regulations**

We review rulings on the constitutionality of regulations for correctness. **Ap, Inc. v. Mont. Dep't of Revenue**, 2000 MT 160, ¶ 20, 300 Mont. 233, 4 P.3d 5. The Montana Supreme Court has plenary power to review questions of constitutional law. **Bryan v. Yellowstone County Elementary Sch. Dist. No. 2**, 2002 MT 264, ¶ 16, 312 Mont. 257, 60 P.3d 381 (internal citations omitted) "A district court's resolution of an issue involving a question of constitutional law is a conclusion of law which we review to determine whether the conclusion is correct." **Bryan**, ¶ 16 (internal citations omitted).

In **Ap, Inc. v. Mont. Dep't of Revenue** the Montana Supreme Court reviewed a district court holding that Admin. R. M. 42.2.791(2002) did not violate the Montana Constitution, Article II, Section 9. 2000 MT 160, ¶ 21, 300 Mont. 233, 4 P.3d 5. Applying review for correctness, we determined that the district court ruling was incorrect, and that the rule was unconstitutional on its face. **Ap, Inc.** at ¶ 28.