CIVIL

Pre-Trial Decision

26. **Counterclaims**

A ruling that a claim is barred as a compulsory counterclaim is a conclusion of law and is reviewed for correctness. **Peters v. State**, 285 Mont. 345, 349–53, 948 P.2d 250, 252–54 (1997).

A ruling that a counterclaim fails to state a claim is a conclusion of law which is reviewed for correctness. **Bar Ok Ranch Co. v. Ehlert**, 2002 MT 12, ¶ 31, 308 Mont. 140, 40 P.3d 378.

A district court's denial of a motion to amend a counterclaim is reviewed for abuse of discretion. **First Sec. Bank v. Ranch Recovery, L.L.C.**, 1999 MT 43, ¶ 23–24, 293 Mont. 363, 976 P.2d 956; see also **Bar Ok Ranch Co. v. Ehlert**, 2002 MT 12, ¶ 30, 308 Mont. 140, 40 P.3d 378.

It is within the trial court's discretion to refuse to allow a party to assert an omitted counterclaim. **Edgewater Townhouse Homeowners Ass'n v. Holtman**, 256 Mont. 182, 187, 845 P.2d 1224, 1227 (1993). We review these decisions under an abuse of discretion standard, although the rule is "generally applied liberally." **Edgewater**, 256 Mon. at 187, 845 P.2d at 1227 (internal citation omitted).

The Montana Supreme Court reviews a district court's ruling on a motion for summary judgment on a counterclaim de novo, using the same M. R. Civ. P. 56 (Rule 56) criteria used by the district court. **Stockman Bank of Mont. v. Potts**, 2002 MT 178, ¶ 3, 311 Mont. 12, 52 P.3d 920); **Chapman v. Maxwell**, 2014 MT 35, ¶ 7, 374 Mont. 12, 14, 322 P.3d 1029, 1031; see also **SVKV, L.L.C. v. Harding**, 2006 MT 297, ¶ 1, 334 Mont. 395, 396, 148 P.3d 584, 585.

It is within the trial court's discretion to deny a motion to dismiss a counterclaim. Lohmier v. Mont. Eighteenth Judicial Dist., 2007 Mont. LEXIS 197, 4. We will exercise supervisory control to review these decisions only if "a mistake of law has been established which, if left uncorrected, would cause a significant injustice for which there is no adequate remedy of appeal." Lohmier, 2007 Mont. LEXIS at 4 (internal citation omitted).