CIVIL

Pre-Trial Decision

35. **Exhaustion**

We review a district court's grant of a motion for summary judgment based on a party's failure to exhaust administrative remedies de novo. Our de novo standard of review of a summary judgment is the same standard used by a district court considering a motion for summary judgment pursuant to M. R. Civ. P. 56(c). ***Offerdahl v. State***, 2002 MT 5, ¶¶ 11–12, 308 Mont. 94, 43 P.3d 275.

We review a district court's dismissal of a complaint for lack of subject matter jurisdiction based on failure to exhaust administrative remedies for correctness. ***Schuster v. N.W. Energy Co.***, 2013 MT 364, ¶ 6, 373 Mont. 54, 314 P.3d 650 (citing ***Mt. Water. Co. v. Mont. Dep't of Pub. Serv. Reg.***, 2005 MT 84, ¶¶ 8, 18, 326 Mont. 416, 110 P.3d 20 (citation omitted) ("[T]his Court reviews the conclusions upon which [the dismissal of a complaint for declaratory relief] is based, which in this case is the District Court's determination that it lacked subject matter jurisdiction, to determine whether the court's interpretation of the law is correct.")).