CIVIL

Pre-Trial Decision

45. **Interlocutory Appeals**

The Montana Supreme Court does not favor appellate review of an interlocutory order by a district court because due appeal is normally an adequate remedy. ***State ex rel. First Bank Sys. v. Dist. Court***, 240 Mont. 77, 84, 782 P.2d 1260, 1264 (1989) (internal citation omitted). The court accepts supervisory control and reviews the interlocutory order when "due appeal is an inadequate remedy" and supervisory control will "prevent extended and needless litigation." ***First Bank Sys.***, 240 Mont. at 84, 782 P.2d at 1264. We do a "case by case analysis" and accept review in appropriate cases. ***First Bank Sys.***, 240 Mont. at 84–85, 782 P.2d at 1264.

When reviewing an interlocutory order on a decision to certify a class, we "afford trial courts the broadest discretion." ***Jacobsen v. Allstate Ins. Co.***, 2013 MT 244, ¶ 25, 371 Mont. 393, 310 P.3d 452 (citing ***Sieglock v. Burlington N. & Santa Fe Ry. Co.***, 2003 MT 355, ¶ 8, 319 Mont. 8, 81 P.3d 495). The trial court is "in the best position to consider the most fair and efficient procedure for conducting any given litigation." ***Chipman v. Nw. Healthcare Corp.***, 2012 MT 242, ¶ 17, 366 Mont. 450, 288 P.3d 193. Therefore, a district court ruling on class certification will stand, absent an abuse of discretion. ***Jacobsen***, ¶ 25.

When reviewing an interlocutory order granting qualified immunity and thereby effectively dismissing the case, we review the decision de novo. ***Boreen v. Christensen***, 280 Mont. 378, 382, 930 P.2d 67, 69 (1996) (internal citations omitted).

When reviewing an interlocutory order on a motion for change of venue, the standard of review depends on the justification for the transfer. ***Burlington N. & Santa Fe Ry. Co. v. State ex rel. Dep't of Envtl. Quality***, 2010 MT 46, ¶ 7, 355 Mont. 296, 228 P.3d 1115. If the district court grants the transfer because the petitioner filed the complaint in an improper county, that is a conclusion of law which is reviewed de novo. ***Burlington***, ¶ 7. If the district court grants the transfer for the "convenience of the witnesses and ends of justice," that is a discretionary ruling which is reviewed for abuse of discretion. ***Burlington***, ¶ 7. Transfer of venue for convenience of witnesses and ends of justice is not subject to interlocutory appeal. ***Burlington***, ¶ 12.