CIVIL

Pre-Trial Decision

58. **Leave to Amend**

M. R. Civ. P. 15(a) of the Montana Rules of Civil Procedure states that leave to amend should be freely given by the district courts. **Griffin v. Moseley**, 2010 MT 132, ¶ 22, 356 Mont. 393, 234 P.3d 869 (citing **Upky v. Marshall Mtn., LLC**, 2008 MT 90, ¶ 18, 342 Mont. 273, 180 P.3d 651). While amendments are not permitted in every circumstance, they may be allowed when they would not cause undue prejudice to the opposing party. **Griffin**, ¶ 22 (citing **Upky, ¶ 18**). We generally review a district court's decision denying leave to amend for an abuse of discretion. **Griffin**, ¶ 22 (citing **Deschamps v. Treasure State Trailer Court, Ltd.**, 2010 MT 74, ¶ 18, 356 Mont. 1, 230 P.3d 800). "Although leave to amend is properly denied when the amendment is futile or legally insufficient to support the requested relief, it is an abuse of discretion to deny leave to amend where it cannot be said that the pleader can develop no set of facts under its proposed amendment that would entitle the pleader to the relief sought." **Griffin**, ¶ 22 (citing **Deschamps, ¶ 18**). The only exception to this abuse of discretion standard of review arises in cases where the district court's decision is rendered pursuant to M. R. Civ. P. 15(c), which addresses the relation back of amendments; in such cases, we review the legal question presented de novo. **Griffin**, ¶ 22 (citing **Deschamps, ¶ 19**).