

DEFINITIONS

3. Correctness

The Supreme Court's standard of review "relating to conclusions of law, whether the conclusions are made by an agency, workers' compensation court, or trial court, is whether the tribunal's interpretation of the law is correct." [Steer, Inc. v. Dept. of Revenue](#), 245 Mont. 470, 474-75, 803 P.2d 601, 603 (1990). The review is plenary. [Palmer by Diacon v. Farmer Ins. Exch.](#), 261 Mont. 91, 101, 861 P.2d 895, 901 (1993). The Supreme Court is not bound by the lower court's conclusions of law, but remains free to reach its own conclusions. [Scott v. Scott](#), 283 Mont. 169, 173, 939 P.2d 998, 1000 (1997). The reason for this is that no discretion is involved when a tribunal arrives at a conclusion of law—rather, the court either correctly or incorrectly applies the law. [Steer, Inc. v. Dept. of Revenue](#), 245 Mont. 470, 474, 803 P.2d 601, 603 (1990). We have conflated this standard with de novo review, stating: "[W]e review a District Court's conclusions of law de novo, determining their correctness." [Wiser v. State](#), 2006 MT 20, ¶ 13, 331 Mont. 28, 129 P.3d 133. See also, e.g. [Friends of the Wild Swan v. D.N.R.C.](#), 2005 MT 351, ¶ 6, 330 Mont. 186, 127 P.3d 394.

The following is a non-exhaustive list of contexts in which the Court has applied the correctness standard of review:

- Arbitrability. [Ratchye v. Lucas](#), 1998 MT 87, ¶ 14, 288 Mont. 345, 957 P.2d 1128.
- Failure to state a claim upon which relief may be granted. [Snetsinger v. Mont. Univ. Sys.](#), 2004 MT 390, ¶ 11, 325 Mont. 148, 104 P.3d 445; [Finstad v. W.R. Grace & Co.-Conn.](#), 2000 MT 228, ¶ 24, 301 Mont. 240, 8 P.3d 778.
- District Court's legal conclusion that agency's conclusions of law were correct. See [Bitterroot River Protective Ass'n v. Bitterroot Conservation Dist.](#), 2008 MT 377, ¶ 18, 346 Mont. 507, 198 P.3d 219.
- Whether agency's conclusion of law is correct. [Baldridge v. Bd. of Trustees](#), 264 Mont. 199, 205, 870 P.2d 711, 714-15 (1993).
- Question of constitutional law. [Schuff v. A.T. Klemens & Son](#), 2000 MT 357, ¶ 28, 303 Mont. 274, 16 P.3d 1002.
- Whether District Court correctly applied statute. See [Schuff v. A.T. Klemens & Son](#), 2000 MT 357, ¶ 29, 303 Mont. 274, 16 P.3d 1002.
- Whether District Court correctly interpreted statute. [Kreger v. Francis](#), 271 Mont. 444, ___, 898 P.2d 672, 674 (1995).

- Attorney fees recoverable as an element of damages. [Jacobsen v. Allstate Ins. Co.](#), 2009 MT 248, ¶ 17, 351 Mont. 464, 215 P.3d 649.
- Whether District Court properly applied the correct standard of review to an administrative decision. [State Pers. Div. v. Dep't of Pub. Health & Human Servs., Child Support Div.](#), 2002 MT 46, ¶ 61, 308 Mont. 365, 43 P.3d 305.
- Existence of a legal duty. [Jackson v. Dept. of Family Servs.](#), 1998 MT 46, ¶ 31, 287 Mont. 473, 956 P.2d 35.
- Interpretation of an insurance contract. [Travelers Cas. & Sur. Co. v. Ribi Immunochem Research](#), 2005 MT 50, ¶ 14, 326 Mont. 174, 108 P.3d 469.
- Decision to issue or deny a writ of mandamus. [Bostwick Props. v. Mont. Dep't of Natural Res. & Conservation](#), 2009 MT 181, ¶ 15, 351 Mont. 26, 208 P.3d 868.
- Judgment as a matter of law. [McDaniel v. State](#), 2009 MT 159, ¶ 13, 350 Mont. 422, 208 P.3d 817.
- Denial of a motion to dismiss in a criminal trial. [State v. Dodson](#), 2009 MT 419, ¶ 31, 354 Mont. 28, 221 P.3d 687.
- Division of marital property. [Harper v. Harper](#), 1999 MT 321, ¶ 17, 297 Mont. 290, 994 P.2d 1.
- Lack of subject matter jurisdiction. [Burchett v. Mastec N. Am., Inc.](#), 2004 MT 177, ¶ 9, 322 Mont. 93, 93 P.3d 1247.
- Award of prejudgment interest. [In re Marriage of Debuff](#), 2002 MT 159, ¶ 15, 310 Mont. 382, 50 P.3d 1070.
- Whether a prior conviction can be used to enhance a criminal sentence. [State v. Allen](#), 2009 MT 124, ¶ 9, 350 Mont. 204, 206 P.3d 951.
- District Court's determination as to whether or not a defendant's privilege against self-incrimination is triggered. [State v. Hill](#), 2009 MT 134, ¶ 21, 350 Mont. 296, 207 P.3d 307.
- Criminal defendant's due process rights. [State v. Simmons](#), 2000 MT 329, ¶ 9, 303 Mont. 60, 15 P.3d 408.