

GENERAL

6. Conclusions of Law

The Supreme Court reviews a district court's conclusions of law de novo. [*State v. Steigelman*](#), 2013 MT 153, ¶ 10, 370 Mont. 352, 302 P.3d 396. The Supreme Court also reviews for correctness a district court's conclusion of law. [*Boyne USA, Inc. v. Spanish Peaks Dev., LLC*](#), 2013 MT 1, ¶ 28, 368 Mont. 143, 292 P.3d 432. Over the years, the Supreme Court has often used de novo and correctness interchangeably. Refer to the section on definitions for further discussion of de novo and correctness review and the difference between the two forms of review.

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

- Summary judgment. [*Siebken v. Voderberg*](#), 2012 MT 291, ¶ 16, 367 Mont. 344, 291 P.3d 572.
- Judgment as a matter of law. [*Johnson v. Costco Wholesale*](#), 2007 MT 43, ¶ 18, 336 Mont. 105, 152 P.3d 727.
- Statutory interpretation. [*LHC, Inc. v. Alvarez*](#), 2007 MT 123, ¶ 13, 337 Mont. 294, 160 P.3d 502; [*State v. Gallagher*](#), 2005 MT 336, ¶ 16, 330 Mont. 65, 125 P.3d 1141 (question of whether district court correctly designated defendant as a persistent felony offender was a question of statutory interpretation, reviewable de novo).
- Denial of motion to dismiss in a criminal case. [*State v. LeMay*](#), 2011 MT 323, ¶ 27, 363 Mont. 172, 266 P.3d 1278.
- Whether contract (plea agreement) was breached. [*State v. Shepard*](#), 2010 MT 20, ¶ 8, 355 Mont. 114, 225 P.3d 1217.
- Whether district court's action conforms to statutory requirements. [*Jacobsen v. Thomas*](#), 2006 MT 212, ¶ 13, 333 Mont. 323, 142 P.3d 859.
- Whether a waiver of right to trial by jury in justice court waives right to trial by jury in district court. [*Balyeat Law, P.C. v. Harrison*](#), 1999 MT 144, ¶ 18, 295 Mont. 13, 983 P.2d 902 (example of where the de novo and correctness standards are used interchangeably: "[w]e review a trial court's conclusions of law de novo to determine whether they are correct.").
- District Court's order granting a motion to compel arbitration. *Iwen v. US. West Direct*, 1999 MT 63, ¶ 17, 293 Mont. 512, 977 P.2d 989.

- District Court's determination as to whether a party is entitled to postjudgment interest. *In re Marriage of Debuff*, 2002 MT 159, ¶ 15, 310 Mont. 382, 50 P.3d 1070.
- District court's ultimate finding of actual innocence. *State v. Beach*, 2013 MT 130, ¶ 8, 370 Mont. 163, 302 P.3d 47.
- Issues of justiciability, such as standing, mootness, ripeness, and political question. *Chipman v. Northwest Healthcare Corp.*, 2012 MT 242, ¶ 16, 366 Mont. 450, 288 P.3d 193.

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. *Baldrige 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 (citing *State v. Schnittgen*, 277 Mont. 291, 295-96, 922 P.2d 500, 503 (1996)).
- Whether District Court correctly applied statute. See *Schuff*, ¶ 29.
- 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.
- Conclusions of law relating to the 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*, ¶ 15.
- 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. Simmon*, 2000 MT 329, ¶ 9, 303 Mont. 60, 15 P.3d 408.
- A district court's interpretation of a restrictive covenant. *Wagner v. Woodwar*, 2012 MT 19, ¶ 17, 363 Mont. 403, 270 P.3d 21.
- The court's determination of the appropriate measure of restitution. *In re K.E.G.*, 2013 MT 82, ¶ 9, 369 Mont. 375, 298 P.3d 1151.
- Whether a party has been afforded his or her constitutional and statutory right to a trial de novo. *McDunn v. Arnold*, 2013 MT 138, ¶ 10, 370 Mont. 270, 303 P.3d 1279.