

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1304

AN ACT

2 To repeal sections 355.176, 490.715, 508.010,
3 508.040, 508.070, 508.120, 510.263, 537.035,
4 537.067, 538.205, 538.210, and 538.225, RSMo,
5 and to enact in lieu thereof thirteen new
6 sections relating to claims for damages and
7 the payment thereof.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
9 AS FOLLOWS:

10 Section A. Sections 355.176, 490.715, 508.010, 508.040,
11 508.070, 508.120, 510.263, 537.035, 537.067, 538.205, 538.210,
12 and 538.225, RSMo, are repealed and thirteen new sections enacted
13 in lieu thereof, to be known as sections 355.176, 490.715,
14 508.010, 510.263, 537.035, 537.067, 538.205, 538.210, 538.213,
15 538.225, 538.226, 1, and 2, to read as follows:

16 355.176. 1. A corporation's registered agent is the
17 corporation's agent for service of process, notice, or demand
18 required or permitted by law to be served on the corporation.

19 2. If a corporation has no registered agent, or the agent
20 cannot with reasonable diligence be served, the corporation may
21 be served by registered or certified mail, return receipt

1 requested, addressed to the secretary of the corporation at its
2 principal office shown in the most recent annual report filed
3 pursuant to section 355.856. Service is perfected under this
4 subsection on the earliest of:

5 _____ (1) The date the corporation receives the mail;

6 _____ (2) The date shown on the return receipt, if signed on
7 behalf of the corporation; or

8 _____ (3) Five days after its deposit in the United States mail,
9 if mailed and correctly addressed with first class postage
10 affixed.

11 _____ 3. This section does not prescribe the only means, or
12 necessarily the required means, of serving a corporation.

13 490.715. 1. No evidence of collateral sources shall be
14 admissible other than such evidence provided for in this section.

15 2. If prior to trial a defendant or his or her insurer or
16 authorized representative, or any combination of them, pays all
17 or any part of a plaintiff's special damages, the defendant may
18 introduce evidence that some other person other than the
19 plaintiff has paid those amounts. The evidence shall not
20 identify any person having made such payments.

21 3. If a defendant introduces evidence described in
22 subsection 2 of this section, such introduction shall constitute
23 a waiver of any right to a credit against a judgment pursuant to
24 section 490.710.

25 4. This section does not require the exclusion of evidence

1 admissible for another proper purpose.

2 5. Parties may introduce evidence of the amount actually
3 paid, by any source, for medical treatment rendered to a party
4 that was reasonable, necessary, and the proximate result of the
5 negligence of any party. No party may introduce evidence of
6 billing for an amount in excess of the amount actually paid for
7 said medical treatment for which payment was made, but may
8 introduce evidence of amounts due and owing for said medical
9 treatment.

10 508.010. [Suits instituted by summons shall, except as
11 otherwise provided by law, be brought] 1. As used in this
12 section "principal place of residence", shall mean the county
13 which is the main place where an individual resides in the state
14 of Missouri. There shall be a rebuttable presumption that the
15 county of voter registration is the principal place of residence.
16 There shall be only one principal place of residence.

17 2. In all actions in which there is no count alleging a
18 tort venue shall be determined as follows:

19 (1) When the defendant is a resident of the state, either
20 in the county within which the defendant resides, or in the
21 county within which the plaintiff resides, and the defendant may
22 be found;

23 (2) When there are several defendants, and they reside in
24 different counties, the suit may be brought in any such county;

25 (3) When there are several defendants, some residents and

1 others nonresidents of the state, suit may be brought in any
2 county in this state in which any defendant resides;

3 (4) When all the defendants are nonresidents of the state,
4 suit may be brought in any county in this state[;

5 (5) Any action, local or transitory, in which any county
6 shall be plaintiff, may be commenced and prosecuted to final
7 judgment in the county in which the defendant or defendants
8 reside, or in the county suing and where the defendants, or one
9 of them, may be found;

10 (6) In all tort actions the suit may be brought in the
11 county where the cause of action accrued regardless of the
12 residence of the parties, and process therein shall be issued by
13 the court of such county and may be served in any county within
14 the state; provided, however, that in any action for defamation
15 or for invasion of privacy the cause of action shall be deemed to
16 have accrued in the county in which the defamation or invasion
17 was first published].

18 3. Tort actions shall include claims based upon improper
19 health care.

20 4. Notwithstanding any other provision of law in all
21 actions in which there is any count alleging a tort, and in which
22 the cause of action accrued in the state of Missouri venue shall
23 be in the county where the cause of action accrued.

24 5. Notwithstanding any other provision of law, in all
25 actions in which there is any count alleging a tort and in which

1 the cause of action accrued outside the state of Missouri venue
2 shall be determined as follows:

3 (1) If the defendant is a corporation then venue may be in
4 the county where a corporate defendant's registered agent is
5 located and if the corporation has not reported or maintained a
6 registered agent then venue shall be in Cole County;

7 (2) If the defendant is an individual then venue may be in
8 the county of the individual's principal place of residence in
9 the state of Missouri.

10 6. Any action, local or transitory, in which any county
11 shall be plaintiff, may be commenced and prosecuted to final
12 judgment in the county in which the defendant or defendants
13 reside, or in the county suing and where the defendants, or one
14 of them, may be found.

15 7. In all actions process therein shall be issued by the
16 court of such county and may be served in any county within the
17 state.

18 8. In any action for defamation or for invasion of privacy
19 the cause of action shall be deemed to have accrued in the county
20 in which the defamation or invasion was first published.

21 9. In all actions venue shall be determined as of the date
22 the cause of action shall accrue.

23 10. All motions to dismiss or to transfer based upon a
24 claim of improper venue shall be deemed granted if not denied
25 within ninety days of filing of the motion unless such time

1 period is waived in writing by all parties.

2 510.263. 1. All actions tried before a jury involving
3 punitive damages, including tort actions based upon improper
4 health care, shall be conducted in a bifurcated trial before the
5 same jury if requested by any party.

6 2. In the first stage of a bifurcated trial, in which the
7 issue of punitive damages is submissible, the jury shall
8 determine liability for compensatory damages, the amount of
9 compensatory damages, including nominal damages, and the
10 liability of a defendant for punitive damages. Evidence of
11 defendant's financial condition shall not be admissible in the
12 first stage of such trial unless admissible for a proper purpose
13 other than the amount of punitive damages.

14 3. If during the first stage of a bifurcated trial the jury
15 determines that a defendant is liable for punitive damages, that
16 jury shall determine, in a second stage of trial, the amount of
17 punitive damages to be awarded against such defendant. Evidence
18 of such defendant's net worth shall be admissible during the
19 second stage of such trial.

20 4. Within the time for filing a motion for new trial, a
21 defendant may file a post-trial motion requesting the amount
22 awarded by the jury as punitive damages be credited by the court
23 with amounts previously paid by the defendant for punitive
24 damages arising out of the same conduct on which the imposition
25 of punitive damages is based. At any hearing, the burden on all

1 issues relating to such a credit shall be on the defendant and
2 either party may introduce relevant evidence on such motion.
3 Such a motion shall be determined by the trial court within the
4 time and according to procedures applicable to motions for new
5 trial. If the trial court sustains such a motion the trial court
6 shall credit the jury award of punitive damages by the amount
7 found by the trial court to have been previously paid by the
8 defendant arising out of the same conduct and enter judgment
9 accordingly. If the defendant fails to establish entitlement to
10 a credit under the provisions of this section, or the trial court
11 finds from the evidence that the defendant's conduct out of which
12 the prior punitive damages award arose was not the same conduct
13 on which the imposition of punitive damages is based in the
14 pending action, or the trial court finds the defendant
15 unreasonably continued the conduct after acquiring actual
16 knowledge of the dangerous nature of such conduct, the trial
17 court shall disallow such credit, or, if the trial court finds
18 that the laws regarding punitive damages in the state in which
19 the prior award of punitive damages was entered substantially and
20 materially deviate from the law of the state of Missouri and that
21 the nature of such deviation provides good cause for disallowance
22 of the credit based on the public policy of Missouri, then the
23 trial court may disallow all or any part of the credit provided
24 by this section.

25 5. The credit allowable under this section shall not apply

1 to causes of action for libel, slander, assault, battery, false
2 imprisonment, criminal conversation, malicious prosecution or
3 fraud.

4 6. The doctrines of remittitur and additur, based on the
5 trial judge's assessment of the totality of the surrounding
6 circumstances, shall apply to punitive damage awards.

7 7. As used in this section, the term "punitive damage
8 award" means an award for punitive or exemplary damages or an
9 award for aggravating circumstances.

10 8. Discovery as to a defendant's assets shall be allowed
11 only after a finding by the trial court that it is more likely
12 than not that the plaintiff will be able to present a submissible
13 case to the trier of fact on the plaintiff's claim of punitive
14 damages.

15 537.035. 1. As used in this section, unless the context
16 clearly indicates otherwise, the following words and terms shall
17 have the meanings indicated:

18 (1) "Health care professional", a physician or surgeon
19 licensed under the provisions of chapter 334, RSMo, or a dentist
20 licensed under the provisions of chapter 332, RSMo, or a
21 podiatrist licensed under the provisions of chapter 330, RSMo, or
22 an optometrist licensed under the provisions of chapter 336,
23 RSMo, or a pharmacist licensed under the provisions of chapter
24 338, RSMo, or a chiropractor licensed under the provisions of
25 chapter 331, RSMo, or a psychologist licensed under the

1 provisions of chapter 337, RSMo, or a nurse licensed under the
2 provisions of chapter 335, RSMo, or a social worker licensed
3 under the provisions of chapter 337, RSMo, or a professional
4 counselor licensed under the provisions of chapter 337, RSMo, or
5 a mental health professional as defined in section 632.005, RSMo,
6 while acting within their scope of practice;

7 (2) "Peer review committee", a committee of health care
8 professionals with the responsibility to evaluate, maintain, or
9 monitor the quality and utilization of health care services or to
10 exercise any combination of such responsibilities.

11 2. A peer review committee may be constituted as follows:

12 (1) Comprised of, and appointed by, a state, county or
13 local society of health care professionals;

14 (2) Comprised of, and appointed by, the partners,
15 shareholders, or employed health care professionals of a
16 partnership or professional corporation of health care
17 professionals;

18 (3) Appointed by the board of trustees, chief executive
19 officer, or the organized medical staff of a licensed hospital,
20 or other health facility operating under constitutional or
21 statutory authority, including long-term care facilities licensed
22 under chapter 198, RSMo, or an administrative entity of the
23 department of mental health recognized pursuant to the provisions
24 of subdivision (3) of subsection 1 of section 630.407, RSMo;

25 (4) Any other organization formed pursuant to state or

1 federal law authorized to exercise the responsibilities of a peer
2 review committee and acting within the scope of such
3 authorization;

4 (5) Appointed by the board of directors, chief executive
5 officer or the medical director of the licensed health
6 maintenance organization.

7 3. Each member of a peer review committee and each person,
8 hospital governing board, health maintenance organization board
9 of directors, and chief executive officer of a licensed hospital
10 or other hospital operating under constitutional or statutory
11 authority, chief executive officer or medical director of a
12 licensed health maintenance organization who testifies before, or
13 provides information to, acts upon the recommendation of, or
14 otherwise participates in the operation of, such a committee
15 shall be immune from civil liability for such acts so long as the
16 acts are performed in good faith, without malice and are
17 reasonably related to the scope of inquiry of the peer review
18 committee.

19 4. Except as otherwise provided in this section, the
20 proceedings, findings, deliberations, reports, and minutes of
21 peer review committees concerning the health care provided any
22 patient are privileged and shall not be subject to discovery,
23 subpoena, or other means of legal compulsion for their release to
24 any person or entity or be admissible into evidence in any
25 judicial or administrative action for failure to provide

1 appropriate care. Except as otherwise provided in this section,
2 no person who was in attendance at any peer review committee
3 proceeding shall be permitted or required to disclose any
4 information acquired in connection with or in the course of such
5 proceeding, or to disclose any opinion, recommendation, or
6 evaluation of the committee or board, or any member thereof;
7 provided, however, that information otherwise discoverable or
8 admissible from original sources is not to be construed as immune
9 from discovery or use in any proceeding merely because it was
10 presented during proceedings before a peer review committee nor
11 is a member, employee, or agent of such committee, or other
12 person appearing before it, to be prevented from testifying as to
13 matters within his personal knowledge and in accordance with the
14 other provisions of this section, but such witness cannot be
15 questioned about testimony or other proceedings before any health
16 care review committee or board or about opinions formed as a
17 result of such committee hearings.

18 5. The provisions of subsection 4 of this section limiting
19 discovery and admissibility of testimony as well as the
20 proceedings, findings, records, and minutes of peer review
21 committees do not apply in any judicial or administrative action
22 brought by a peer review committee or the legal entity which
23 formed or within which such committee operates to deny, restrict,
24 or revoke the hospital staff privileges or license to practice of
25 a physician or other health care providers; or when a member,

1 employee, or agent of the peer review committee or the legal
2 entity which formed such committee or within which such committee
3 operates is sued for actions taken by such committee which
4 operate to deny, restrict or revoke the hospital staff privileges
5 or license to practice of a physician or other health care
6 provider.

7 6. Nothing in this section shall limit authority otherwise
8 provided by law of a health care licensing board of the state of
9 Missouri to obtain information by subpoena or other authorized
10 process from peer review committees or to require disclosure of
11 otherwise confidential information relating to matters and
12 investigations within the jurisdiction of such health care
13 licensing boards.

14 537.067. [1.] In all tort actions for damages[, in which
15 fault is not assessed to the plaintiff], [the defendants] a
16 defendant shall be jointly and severally liable for the amount of
17 [the judgment] the compensatory damages and noneconomic damages
18 portion of the judgment rendered against [such] defendants only
19 if such defendant is found to bear fifty percent or more of
20 fault. A defendant may not be jointly or severally liable for
21 more than the percentage of punitive damages for which fault is
22 attributed to such defendant by the trier of fact.

23 [2. In all tort actions for damages in which fault is
24 assessed to plaintiff the defendants shall be jointly and
25 severally liable for the amount of the judgment rendered against

1 such defendants except as follows:

2 (1) In all such actions in which the trier of fact assesses
3 a percentage of fault to the plaintiff, any party, including the
4 plaintiff, may within thirty days of the date the verdict is
5 rendered move for reallocation of any uncollectible amounts;

6 (2) If such a motion is filed the court shall determine
7 whether all or part of a party's equitable share of the
8 obligation is uncollectible from that party, and shall reallocate
9 any uncollectible amount among the other parties, including a
10 claimant at fault, according to their respective percentages of
11 fault;

12 (3)] The party whose uncollectible amount is reallocated is
13 nonetheless subject to contribution and to any continuing
14 liability to the claimant on the judgment[;].

15 [(4) No amount shall be reallocated to any party whose
16 assessed percentage of fault is less than the plaintiff's so as
17 to increase that party's liability by more than a factor of two;

18 (5) If such a motion is filed, the parties may conduct
19 discovery on the issue of collectibility prior to a hearing on
20 such motion;

21 (6) Any order of reallocation pursuant to this section
22 shall be entered within one hundred twenty days after the date of
23 filing such a motion for reallocation. If no such order is
24 entered within that time, such motion shall be deemed to be
25 overruled;

1 (7) Proceedings on a motion for reallocation shall not
2 operate to extend the time otherwise provided for post-trial
3 motion or appeal on other issues.

4 Any appeal on an order or denial of reallocation shall be taken
5 within the time provided under applicable rules of civil
6 procedure and shall be consolidated with any other appeal on
7 other issues in the case.

8 3. This section shall not be construed to expand or
9 restrict the doctrine of joint and several liability except for
10 reallocation as provided in subsection 2.]

11 538.205. As used in sections 538.205 to 538.230, the
12 following terms shall mean:

13 (1) "Economic damages", damages arising from pecuniary harm
14 including, without limitation, medical damages, and those damages
15 arising from lost wages and lost earning capacity;

16 (2) "Equitable share", the share of a person or entity in
17 an obligation that is the same percentage of the total obligation
18 as the person's or entity's allocated share of the total fault,
19 as found by the trier of fact;

20 (3) "Future damages", damages that the trier of fact finds
21 will accrue after the damages findings are made;

22 (4) "Health care provider", any physician, hospital, health
23 maintenance organization, ambulatory surgical center, long-term
24 care facility including those licensed under chapter 198, RSMo,

1 dentist, registered or licensed practical nurse, optometrist,
2 podiatrist, pharmacist, chiropractor, professional physical
3 therapist, psychologist, physician-in-training, and any other
4 person or entity that provides health care services under the
5 authority of a license or certificate;

6 (5) "Health care services", any services that a health care
7 provider renders to a patient in the ordinary course of the
8 health care provider's profession or, if the health care provider
9 is an institution, in the ordinary course of furthering the
10 purposes for which the institution is organized. Professional
11 services shall include, but are not limited to, transfer to a
12 patient of goods or services incidental or pursuant to the
13 practice of the health care provider's profession or in
14 furtherance of the purposes for which an institutional health
15 care provider is organized;

16 (6) "Medical damages", damages arising from reasonable
17 expenses for necessary drugs, therapy, and medical, surgical,
18 nursing, x-ray, dental, custodial and other health and
19 rehabilitative services;

20 (7) "Noneconomic damages", damages arising from
21 nonpecuniary harm including, without limitation, pain, suffering,
22 mental anguish, inconvenience, physical impairment,
23 disfigurement, loss of capacity to enjoy life, and loss of
24 consortium but shall not include punitive damages;

25 (8) "Past damages", damages that have accrued when the

1 damages findings are made;

2 (9) "Physician employee", any person or entity who works
3 for hospitals for a salary or under contract and who is covered
4 by a policy of insurance or self-insurance by a hospital for acts
5 performed at the direction or under control of the hospital;

6 (10) "Punitive damages", damages intended to punish or
7 deter willful, wanton or malicious misconduct, including
8 exemplary damages and damages for aggravating circumstances;

9 (11) "Self-insurance", a formal or informal plan of
10 self-insurance or no insurance of any kind.

11 538.210. 1. In any action against a health care provider
12 for damages for personal injury or death arising out of the
13 rendering of or the failure to render health care services, no
14 plaintiff shall recover more than [three] four hundred [fifty]
15 thousand dollars [per occurrence] for noneconomic damages [from
16 any one defendant as defendant is defined in subsection 2 of this
17 section] irrespective of the number of defendants.

18 2. ["Defendant" for purposes of sections 538.205 to 538.230
19 shall be defined as:

20 (1) A hospital as defined in chapter 197, RSMo, and its
21 employees and physician employees who are insured under the
22 hospital's professional liability insurance policy or the
23 hospital's self-insurance maintained for professional liability
24 purposes;

25 (2) A physician, including his nonphysician employees who

1 are insured under the physician's professional liability
2 insurance or under the physician's self-insurance maintained for
3 professional liability purposes;

4 (3) Any other health care provider having the legal
5 capacity to sue and be sued and who is not included in
6 subdivisions (1) and (2) of this subsection, including employees
7 of any health care providers who are insured under the health
8 care provider's professional liability insurance policy or
9 self-insurance maintained for professional liability purposes].

10 Such limitation shall also apply to any other individual or
11 entity that is a defendant in a lawsuit brought against a health
12 care provider pursuant to this chapter, or that is a defendant in
13 any lawsuit that arises out of the rendering of or the failure to
14 render health care services.

15 3. No hospital or other health care provider shall be
16 liable to any plaintiff based solely on the actions or omissions
17 of any other entity or person who is not an employee of that
18 hospital or other health care provider.

19 [3.] 4. In any action against a health care provider for
20 damages for personal injury or death arising out of the rendering
21 of or the failure to render health care services, where the trier
22 of fact is a jury, such jury shall not be instructed by the court
23 with respect to the limitation on an award of noneconomic
24 damages, nor shall counsel for any party or any person providing
25 testimony during such proceeding in any way inform the jury or

1 potential jurors of such limitation.

2 [4. The limitation on awards for noneconomic damages
3 provided for in this section shall be increased or decreased on
4 an annual basis effective January first of each year in
5 accordance with the Implicit Price Deflator for Personal
6 Consumption Expenditures as published by the Bureau of Economic
7 Analysis of the United States Department of Commerce. The
8 current value of the limitation shall be calculated by the
9 director of the department of insurance, who shall furnish that
10 value to the secretary of state, who shall publish such value in
11 the Missouri Register as soon after each January first as
12 practicable, but it shall otherwise be exempt from the provisions
13 of section 536.021, RSMo.] 5. For purposes of sections 538.205
14 to 538.230, any spouse claiming damages for loss of consortium of
15 their spouse shall be considered to be the same plaintiff as
16 their spouse.

17 [5.] 6. Any provision of law or court rule to the contrary
18 notwithstanding, an award of punitive damages against a health
19 care provider governed by the provisions of sections 538.205 to
20 538.230 shall be made only upon a showing by a plaintiff that the
21 health care provider demonstrated willful, wanton or malicious
22 misconduct with respect to his actions which are found to have
23 injured or caused or contributed to cause the damages claimed in
24 the petition.

25 7. For purposes of sections 538.205 to 538.230, all

1 individuals and entities asserting a claim for a wrongful death
2 pursuant to section 537.080, RSMo, shall be considered to be one
3 plaintiff.

4 538.213. 1. Any physician licensed pursuant to chapter
5 334, RSMo, or dentist licensed pursuant to chapter 332, RSMo, or
6 hospital, or employee of a hospital as defined in section
7 197.020, RSMo, or other health care provider as defined in
8 section 538.205, who renders any care or assistance in a hospital
9 shall not be held liable for more than four hundred thousand
10 dollars in civil damages, exclusive of interest computed from the
11 date of judgment, to or for the benefit of any claimant arising
12 out of any act or omission in rendering that care or assistance
13 when:

14 (1) The care or assistance is rendered in a hospital
15 emergency department, or is care rendered within twenty-four
16 hours of receiving care in the emergency department;

17 (2) The care or assistance rendered is necessitated by a
18 traumatic injury demanding immediate medical attention for which
19 the patient enters the hospital for care in its emergency
20 department or trauma center; and

21 (3) The care or assistance is rendered in good faith and in
22 a manner not amounting to reckless, willful, or wanton conduct.

23 2. The limitation on liability provided pursuant to this
24 section does not apply to any act or omission in rendering care
25 or assistance which:

1 (1) Occurs after the patient is stabilized and is capable
2 of receiving medical treatment as a nonemergency patient; or

3 (2) Is unrelated to the original traumatic injury.

4 3. There shall be a rebuttable presumption that the medical
5 condition was the result of the original traumatic injury.

6 4. In considering whether an act or omission constitutes
7 reckless, willful, or wanton conduct, the court shall consider
8 the following:

9 (1) The extent or serious nature of the prevailing
10 circumstances;

11 (2) The lack of time or ability to obtain appropriate
12 consultation;

13 (3) The lack of a prior medical relationship with the
14 patient;

15 (4) The inability to obtain an appropriate medical history
16 of the patient; and

17 (5) The time constraints imposed by coexisting emergencies.

18 5. For purposes of this section "Traumatic injury" shall
19 mean any acute injury which, according to standardized criteria
20 for triage in the field, involves a significant risk of death or
21 the precipitation of complications or disabilities.

22 538.225. 1. In any action against a health care provider
23 for damages for personal injury or death on account of the
24 rendering of or failure to render health care services, the
25 plaintiff or [his] the plaintiff's attorney shall file an

1 affidavit with the court stating that he or she has obtained the
2 written opinion of a legally qualified health care provider which
3 states that the defendant health care provider failed to use such
4 care as a reasonably prudent and careful health care provider
5 would have under similar circumstances and that such failure to
6 use such reasonable care directly caused or directly contributed
7 to cause the damages claimed in the petition. The written
8 opinion shall be subject to in camera review at the request of
9 any defendant for a determination of whether the health care
10 provider offering such an opinion meets the qualifications set
11 forth in subsection 6 of this section.

12 2. The affidavit shall state the qualifications of such
13 health care providers to offer such opinion.

14 3. A separate affidavit shall be filed for each defendant
15 named in the petition.

16 4. Such affidavit shall be filed no later than ninety days
17 after the filing of the petition unless the court, for good cause
18 shown, orders that such time be extended for a period of time not
19 to exceed an additional ninety days.

20 5. If the plaintiff or his attorney fails to file such
21 affidavit the court [may] shall, upon motion of any party,
22 dismiss the action against such moving party without prejudice.

23 6. As used in this section, the term "legally qualified
24 health care provider" means a health care provider licensed in
25 this state or any other state in substantially the same

1 profession and certified in substantially the same specialty as
2 the defendant.

3 538.226. 1. The portion of statements, writings, or
4 benevolent gestures expressing sympathy or a general sense of
5 benevolence relating to the pain, suffering, or death of a person
6 and made to that person or to the family of that person shall be
7 inadmissible as evidence of an admission of liability in a civil
8 action. A statement of fault, however, which is part of, or in
9 addition to, any of the provisions of this subsection shall not
10 be inadmissible pursuant to this section.

11 2. For the purposes of this section:

12 (1) "Benevolent gestures", actions which convey a sense of
13 compassion or commiseration emanating from humane impulses;

14 (2) "Family", the spouse, parent, grandparent, stepmother,
15 stepfather, child, grandchild, brother, sister, half brother,
16 half sister, adopted children of a parent, or spouse's parents of
17 an injured party.

18 Section 1. If any provision of this act is found by a court
19 of competent jurisdiction to be invalid or unconstitutional it is
20 the stated intent of the legislature that the legislature would
21 have approved the remaining portions of the act, and the
22 remaining portions of the act shall remain in full force and
23 effect.

24 Section 2. The provisions of this act shall only apply to
25 causes of action filed after August 28, 2004.

1 [355.176. 1. A corporation's
2 registered agent is the corporation's agent
3 for service of process, notice, or demand
4 required or permitted by law to be served on
5 the corporation.

6 2. If a corporation has no registered
7 agent, or the agent cannot with reasonable
8 diligence be served, the corporation may be
9 served by registered or certified mail,
10 return receipt requested, addressed to the
11 secretary of the corporation at its principal
12 office shown in the most recent annual report
13 filed pursuant to section 355.856. Service
14 is perfected under this subsection on the
15 earliest of:

16 (1) The date the corporation receives
17 the mail;

18 (2) The date shown on the return
19 receipt, if signed on behalf of the
20 corporation; or

21 (3) Five days after its deposit in the
22 United States mail, if mailed and correctly
23 addressed with first class postage affixed.

24 3. This section does not prescribe the
25 only means, or necessarily the required
26 means, of serving a corporation.】

27 [508.040. Suits against corporations
28 shall be commenced either in the county where
29 the cause of action accrued, or in case the
30 corporation defendant is a railroad company
31 owning, controlling or operating a railroad
32 running into or through two or more counties
33 in this state, then in either of such
34 counties, or in any county where such
35 corporations shall have or usually keep an
36 office or agent for the transaction of their
37 usual and customary business.】

38 [508.070. 1. Suit may be brought
39 against any motor carrier which is subject to
40 regulation pursuant to chapter 390, RSMo, in
41 any county where the cause of action may
42 arise, in any town or county where the motor
43 carrier operates, or judicial circuit where
44 the cause of action accrued, or where the
45 defendant maintains an office or agent, and
46 service may be had upon the motor carrier
47 whether an individual person, firm, company,
48 association, or corporation, by serving

1 process upon the director, division of motor
2 carrier and railroad safety.

3 2. When a summons and petition are
4 served upon the director, division of motor
5 carrier and railroad safety, naming any motor
6 carrier, either a resident or nonresident of
7 this state, as a defendant in any action, the
8 director shall immediately mail the summons
9 and petition by registered United States mail
10 to the motor carrier at the business address
11 of the motor carrier as it appears upon the
12 records of the commission. The director
13 shall request from the postmaster a return
14 receipt from the motor carrier to whom the
15 registered letter enclosing copy of summons
16 and petition is mailed. The director shall
17 inform the clerk of the court out of which
18 the summons was issued that the summons and
19 petition were mailed to the motor carrier, as
20 herein described, and the director shall
21 forward to the clerk the return receipt
22 showing delivery of the registered letter.

23 3. Each motor carrier not a resident of
24 this state and not maintaining an office or
25 agent in this state shall, in writing,
26 designate the director as its authorized
27 agent upon whom legal service may be had in
28 all actions arising in this state from any
29 operation of the motor vehicle pursuant to
30 authority of any certificate or permit, and
31 service shall be had upon the nonresident
32 motor carrier as herein provided.

33 4. There shall be kept in the office of
34 the director, division of motor carrier and
35 railroad safety a permanent record showing
36 all process served, the name of the plaintiff
37 and defendant, the court from which the
38 summons issued, the name and title of the
39 officer serving the same, the day and the
40 hour of service, the day and date on which
41 petition and summons were forwarded to the
42 defendant or defendants by registered letter,
43 the date on which return receipt is received
44 by the director, and the date on which the
45 return receipt was forwarded to the clerk of
46 the court out of which the summons was
47 issued.]

48 [508.120. No defendant shall be allowed
49 a change of venue and no application by a

1 defendant to disqualify a judge shall be
2 granted unless the application therefor is
3 made before the filing of his answer to the
4 merits, except when the cause for the change
5 of venue or disqualification arises, or
6 information or knowledge of the existence
7 thereof first comes to him, after the filing
8 of his answer in which case the application
9 shall state the time when the cause arose or
10 when applicant acquired information and
11 knowledge thereof, and the application must
12 be made within five days thereafter.]