

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 7

AN ACT

To repeal sections 507.040, 507.050, 508.010, 508.012, and 537.762, RSMo, and to enact in lieu thereof nine new sections relating to civil procedure.

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

1 Section A. Sections 507.040, 507.050, 508.010, 508.012, and
2 537.762, RSMo, are repealed and nine new sections enacted in lieu
3 thereof, to be known as sections 375.1800, 375.1803, 375.1806,
4 507.040, 507.050, 508.010, 508.012, 537.762, and 1, to read as
5 follows:

6 375.1800. 1. A domestic insurance company shall be deemed
7 for all purposes, including venue, to reside in, and be a
8 resident of, the county where its registered office is
9 maintained.

10 2. A foreign insurance company shall be deemed for all
11 purposes, including venue, to reside in, and be a resident of,
12 the county where its registered office is maintained. A foreign
13 insurance company that does not maintain a registered office in
14 any county in Missouri shall be deemed to reside in, and be a
15 resident of, Cole County.

16 375.1803. 1. Notwithstanding any provision of law to the
17 contrary, in all actions in which there is any count against an
18 insurer, whether in tort or contract, regarding the rights,
19 benefits, or duties under an insurance contract or any action

1 arising from an insurance contract, including but not limited to
2 claims of breach of contract, bad faith, or breach of fiduciary
3 duty, venue shall be in the county where the insurer resides, or
4 if the insured was a resident of Missouri at the time the
5 insurance contract was issued, the county of the insured's
6 principal place of residence, as defined in section 508.010, at
7 the time the insurance contract was issued. Venue shall be
8 determined by this section even if the insured's rights or claims
9 under the policy have been assigned or otherwise transferred to
10 another party. However, intervention by an insurer in an action
11 pursuant to section 537.065 shall not affect the venue of the
12 action.

13 2. (1) The provisions of this section shall not apply to
14 any action against an insurer relating to uninsured motorist
15 coverage or underinsured motorist coverage, including any action
16 to enforce such coverage.

17 (2) Venue for a vexatious refusal to pay claim under
18 section 375.296 or section 375.420 to collect an amount due under
19 uninsured motorist or underinsured motorist coverage shall not be
20 determined in accordance with the provisions of this section, but
21 shall be determined by the provisions of section 375.1806.

22 However, venue for any other vexatious refusal to pay claim to
23 collect an amount due under any other type of policy or coverage
24 shall be determined in accordance with the provisions of this
25 section.

26 375.1806. Notwithstanding any provision of law to the
27 contrary, in all actions against an insurer relating to uninsured
28 motorist coverage or underinsured motorist coverage, including

1 any action to enforce such coverage, venue as to that individual
2 plaintiff shall be determined as follows:

3 (1) If the accident involving the uninsured or underinsured
4 motor vehicle occurred in Missouri, then venue shall be in the
5 county where the accident occurred;

6 (2) If the accident involving the uninsured or underinsured
7 motor vehicle occurred outside the state of Missouri, then venue
8 shall either be in:

9 (a) The county where the insurer resides; or

10 (b) If the insured's principal place of residence was in
11 the state of Missouri on the date the insured was first injured
12 by the accident involving an uninsured or underinsured motor
13 vehicle, the county of the insured's principal place of residence
14 on the date the insured was first injured by such accident.

15 507.040. 1. All persons may join in one action as
16 plaintiffs if they assert any right to relief jointly, severally,
17 or in the alternative in respect of or arising out of the same
18 transaction, occurrence, or series of transactions or occurrences
19 and if any question of law or fact common to all of them will
20 arise in the action. All persons may be joined in one action as
21 defendants if there is asserted against them jointly, severally,
22 or in the alternative, any right to relief in respect of or
23 arising out of the same transaction, occurrence, or series of
24 transactions or occurrences and if any question of law or fact
25 common to all of them will arise in the action. Notwithstanding
26 any other provision of law to the contrary, claims arising out of
27 separate purchases of the same product or service, or separate
28 incidents involving the same product or services shall not

1 satisfy this section. A plaintiff or defendant need not be
2 interested in obtaining or defending against all the relief
3 demanded. Judgment may be given for one or more of the
4 plaintiffs according to their respective rights to relief, and
5 against one or more defendants according to their respective
6 liabilities.

7 2. The general assembly hereby expressly adopts the holding
8 of State ex rel. Johnson & Johnson v. Burlison, No. SC96704, as
9 issued on February 13, 2019, as it relates to the analysis of
10 joinder and venue.

11 3. The court may make such orders as will prevent a party
12 from being embarrassed, delayed, or put to expense by the
13 inclusion of a party against whom he asserts no claim and who
14 asserts no claim against him, and may order separate trials or
15 make other orders to prevent delay or prejudice.

16 507.050. 1. Misjoinder of parties is not ground for
17 dismissal of an action. Parties may be dropped [or], added, or
18 severed by order of the court on motion of any party or of its
19 own initiative at any stage of the action and on such terms as
20 are just. Any claim against a party may be severed and proceeded
21 with separately.

22 2. A motion to drop or add parties may be made at the same
23 time as other motions provided for in section 509.290, and if so
24 made, the provisions of section 509.340 with reference to the
25 consolidation of motions and waiver of objections shall also
26 apply. If said motion is made at any other time, the hearing and
27 determination thereof shall not delay the trial. Objections on
28 account of misjoinder or nonjoinder of parties may also be raised

1 by answer or reply.

2 508.010. 1. As used in this section, "principal place of
3 residence" shall mean the county which is the main place where an
4 individual resides in the state of Missouri. [There shall be a
5 rebuttable presumption that the county of voter registration at
6 the time of injury is the principal place of residence.] There
7 shall be only one principal place of residence.

8 (1) For an individual person, there shall be a rebuttable
9 presumption that the county of voter registration at the time of
10 injury is the principal place of residence.

11 (2) Notwithstanding subdivision (1) of this subsection, for
12 an individual whose conduct at issue was alleged in at least one
13 count to be in the course and scope of his or her employment with
14 a corporation, the individual's principal place of residence for
15 venue purposes shall be deemed to be the applicable corporation's
16 principal place of residence.

17 (3) For a corporation, the county where the corporation has
18 its registered agent is the principal place of residence.

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

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

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

27 (3) When there are several defendants, some residents and
28 others nonresidents of the state, suit may be brought in any

1 county in this state in which any defendant resides;

2 (4) When all the defendants are nonresidents of the state,
3 suit may be brought in any county in this state, provided there
4 is personal jurisdiction over each defendant, independent of each
5 other defendant.

6 3. The term "tort" shall include claims based upon improper
7 health care, under the provisions of chapter 538.

8 4. Notwithstanding any other provision of law, in all
9 actions in which there is any count alleging a tort and in which
10 the plaintiff was first injured in the state of Missouri, venue
11 shall be in the county where the plaintiff was first injured by
12 the [wrongful] acts or [negligent] conduct alleged in the action.

13 5. Notwithstanding any other provision of law, in all
14 actions in which there is any count alleging a tort and in which
15 the plaintiff was first injured outside the state of Missouri,
16 venue as to that individual plaintiff shall be determined as
17 follows:

18 (1) If the defendant is a corporation, then venue shall be
19 in any county where a defendant corporation's registered agent is
20 located or, if the plaintiff's principal place of residence was
21 in the state of Missouri on the date the plaintiff was first
22 injured, then venue may be in the county of the plaintiff's
23 principal place of residence on the date the plaintiff was first
24 injured;

25 (2) If the defendant is an individual, then venue shall be
26 in [any] the county [of] where the [individual defendant's]
27 defendant has his or her principal place of residence in the
28 state of Missouri, which for venue purposes shall be deemed to be

1 that of his or her employer corporation if any count alleges
2 conduct in the course and scope of his or her employment with
3 that corporation, or, if the plaintiff's principal place of
4 residence was in the state of Missouri on the date the plaintiff
5 was first injured, then venue as to that individual plaintiff may
6 be in the county containing the plaintiff's principal place of
7 residence on the date the plaintiff was first injured;

8 (3) Notwithstanding subdivisions (1) and (2) of this
9 subsection, if the plaintiff was first injured in a foreign
10 country in connection with any railroad operations therein and
11 any defendant is a:

12 (a) Corporation that, either directly or through its
13 subsidiaries, wholly owns or operates the foreign railroad; or

14 (b) Wholly owned subsidiary of a corporation that, either
15 directly or through its subsidiaries, wholly owns or operates the
16 foreign railroad;

17
18 then venue shall exclusively be in the county where any such
19 defendant corporation's registered agent is located, regardless
20 of venue as to any other defendant or, if the plaintiff's
21 principal place of residence was in the state of Missouri on the
22 date the plaintiff was first injured, then venue may be in the
23 county of the plaintiff's principal place of residence on the
24 date the plaintiff was first injured.

25 6. Any action, in which any county shall be a plaintiff,
26 may be commenced and prosecuted to final judgment in the county
27 in which the defendant or defendants reside, or in the county
28 suing and where the defendants, or one of them, may be found.

1 7. In all actions, process shall be issued by the court in
2 which the action is filed and process may be served in any county
3 within the state.

4 8. In any action for defamation or for invasion of privacy,
5 the plaintiff shall be considered first injured in the county in
6 which the defamation or invasion was first published.

7 9. In all actions, venue shall be determined as of the date
8 the plaintiff was first injured.

9 10. All motions to dismiss or to transfer based upon a
10 claim of improper venue shall be deemed granted if not denied
11 within ninety days of filing of the motion unless such time
12 period is waived in writing by all parties.

13 11. In a wrongful death action, the plaintiff shall be
14 considered first injured where the decedent was first injured by
15 the wrongful acts or negligent conduct alleged in the action. In
16 any spouse's claim for loss of consortium, the plaintiff claiming
17 consortium shall be considered first injured where the other
18 spouse was first injured by the wrongful acts or negligent
19 conduct alleged in the action.

20 12. The provisions of this section shall apply irrespective
21 of whether the defendant is a for-profit or a not-for-profit
22 entity.

23 13. In any civil action, if all parties agree in writing to
24 a change of venue, the court shall transfer venue to the county
25 within the state unanimously chosen by the parties. If any
26 parties are added to the cause of action after the date of said
27 transfer who do not consent to said transfer then the cause of
28 action shall be transferred to such county in which venue is

1 appropriate under this section, based upon the amended pleadings.

2 14. A plaintiff is considered first injured where the
3 trauma or exposure occurred rather than where symptoms are first
4 manifested.

5 15. If the county where the plaintiff's claim is filed is
6 not a proper venue, that plaintiff shall be transferred to a
7 county where proper venue can be established. If no such county
8 exists in the state of Missouri, the claim shall be dismissed
9 without prejudice.

10 16. Denial of a motion to transfer venue pursuant to
11 sections 507.040, 507.050, or 508.010, if denied in error,
12 requires reversal, and no finding of prejudice under Missouri
13 supreme court rule 84.13(b) is required for reversal.

14 17. For the purposes of this section, a domestic insurance
15 company shall be deemed to reside in, and be a resident of, the
16 county where its registered office is maintained. A foreign
17 insurance company shall be deemed to reside in, and be a resident
18 of, the county where its registered office is maintained. If a
19 foreign insurance company does not maintain a registered office
20 in any county in Missouri, the foreign insurance company shall be
21 deemed to reside in, and be a resident of, Cole County.

22 508.012. At any time prior to the commencement of a trial,
23 if a plaintiff or defendant, including a third-party plaintiff or
24 defendant, is either added [or] to, removed, or severed from a
25 petition filed in any court in the state of Missouri which would
26 have, if originally added [or] to, removed [to], or severed from
27 the initial petition, altered the determination of venue under
28 section 508.010, then the judge shall upon application of any

1 party transfer the case to a proper forum [under section
2 476.410].

3 537.762. 1. A defendant whose liability is based solely on
4 his status as a seller in the stream of commerce may be dismissed
5 from a products liability claim as provided in this section.

6 2. This section shall apply to any products liability claim
7 in which another defendant, including the manufacturer, is
8 properly before the court and from whom total recovery may be had
9 for plaintiff's claim.

10 3. A defendant may move for dismissal under this section
11 within the time for filing an answer or other responsive pleading
12 unless permitted by the court at a later time for good cause
13 shown. The motion shall be accompanied by an affidavit which
14 shall be made under oath and shall state that the defendant is
15 aware of no facts or circumstances upon which a verdict might be
16 reached against him, other than his status as a seller in the
17 stream of commerce.

18 4. The parties shall have sixty days in which to conduct
19 discovery on the issues raised in the motion and affidavit. The
20 court for good cause shown, may extend the time for discovery,
21 and may enter a protective order pursuant to the rules of civil
22 procedure regarding the scope of discovery on other issues.

23 5. Any party may move for a hearing on a motion to dismiss
24 under this section. If the requirements of subsections 2 and 3
25 of this section are met, and no party comes forward at such a
26 hearing with evidence of facts which would render the defendant
27 seeking dismissal under this section liable on some basis other
28 than his status as a seller in the stream of commerce, the court

1 shall dismiss without prejudice the claim as to that defendant.

2 6. [No order of dismissal under this section shall operate
3 to divest a court of venue or jurisdiction otherwise proper at
4 the time the action was commenced. A defendant dismissed
5 pursuant to this section shall be considered to remain a party to
6 such action only for such purposes.

7 7.] An order of dismissal under this section shall be
8 interlocutory until final disposition of plaintiff's claim by
9 settlement or judgment and may be set aside for good cause shown
10 at anytime prior to such disposition.

11 Section 1. The provisions of sections 507.040, 507.050,
12 508.010, 508.012, and 537.762 shall apply to any action filed
13 after February 13, 2019, except that a plaintiff who is a
14 resident of Missouri and who has a case that is:

15 (1) Pending in a court in this state as of February 13,
16 2019;

17 (2) Has proper jurisdiction in this state; and

18 (3) Has a trial date, which was set before February 13,
19 2019, and will begin on or before August 28, 2019,

20
21 may continue to trial in the venue as filed.