

NEW LIMITS ON PUNITIVE DAMAGES IN MISSOURI

Missouri's General Assembly gave final approval to Senate Bill 591 last week, sending the bill to Governor Parson's desk all but assuring it will become law. The legislation creates new procedures for civil litigants seeking punitive damages and imposes stricter standards in medical malpractice cases especially. The law also amends the Missouri Merchandising Practices Act (MMPA) by providing clearer definitions and more stringent evidentiary requirements. According to the bill's sponsor, S.B. 591 is intended to target abusive practices and prevent punitive damage claims from being used as leverage to force larger settlements in cases where they are not justified.

PUNITIVE DAMAGES AND PRE-TRIAL PROCEDURE:

S.B. 591 prohibits plaintiffs requesting punitive damages in their initial pleadings. Rather, plaintiffs must now seek leave of court to assert such a claim. Courts, in turn, must critically assess any requests to assert punitive damages, evaluating the evidence to determine whether a jury could reasonably conclude, based on clear and convincing evidence, that a defendant "intentionally harmed the plaintiff without just cause or acted with a deliberate and flagrant disregard for the safety of others." Given the new "clear and convincing evidence" standard, courts must conduct fact-intensive analysis, likely following extensive factual and expert discovery, and defendants must receive an opportunity to fully brief and argue factual and legal issues related to punitive damages claims. No longer will a plaintiff's basic factual pleadings alone support a claim for punitive damages.

MEDICAL MALPRACTICE CASES:

In the medical malpractice context, S.B. 591 resolves a critical issue resulting from recent Court of Appeals decisions that rendered "conscious disregard" equivalent to "intentional" or "malicious" conduct. S.B. 591 eliminates negligence as a basis to award punitive damages, amending sections 538.205 and 538.210 of the Missouri statutes to ensure punitive damages are limited to only "malicious misconduct or conduct that intentionally caused damage to the plaintiff." The legislature further specifically noted that evidence of negligence including "indifference to or conscious disregard for the safety of others" would no longer support a claim for punitive damages.

PEOPLE

Maureen O. Bryan

SERVICES AND INDUSTRIES

Litigation

Medical Malpractice

Class Action Litigation

MMPA CLAIMS:

Prior to S.B. 591, ambiguities in the text of the MMPA led plaintiffs to routinely seek punitive damages for alleged MMPA violations in personal injury suits. S.B. 591 now requires plaintiffs to prove they relied on an untrue statement, acted reasonably, and suffered objectively verifiable damages. The amendments also modify MMPA class actions by requiring all class members to show how their damages were caused by the practice at issue, and any award for attorneys' fees must bear a reasonable relationship to the amount of the judgment.

EMPLOYER-EMPLOYEE CASES:

S.B. 591 also limits the imposition of punitive damages against an employer based on the acts of an employee. Plaintiffs must at least establish the employee was unfit to perform their job, or that the employer somehow knew of or authorized the employee's actions.

EFFECT OF CHANGES:

The changes resulting from S.B. 591's passage should prove a sea change in how punitive damages claims are pled, evaluated and resolved in negligence and MMPA actions, with particular dramatic effect on medical malpractice claims. Moving forward, defendants should include references to the new statute's provisions in affirmative defenses, undertake an assessment of potential retroactive application of the new law to existing cases involving punitive claims, ensure discovery is tailored to address future requests for leave to add punitive damages claims as cases develop, and move promptly to strike punitive damages claims that are not in compliance with the procedural dictates of the new law.