

# Reform or Reshuffle? Consequences of the 2005 Missouri Tort Reform Act

Barbara A. Geisman\*

## I. INTRODUCTION

Spawned in an era of rising health care costs and bitterly fought political campaigns, the fevered pitch of Missouri's tort reform debate continues,<sup>1</sup> even after Missouri's version of tort reform became law in 2005.<sup>2</sup> In a July 2012 decision applauded by the plaintiffs' bar,<sup>3</sup> the Missouri Supreme Court struck down Missouri's non-economic medical malpractice damages cap as contrary to Missouri constitutional rights;<sup>4</sup> some Missouri legislators now favor a

---

\* J.D. (2013), Washington University School of Law. The author expresses her sincere and heartfelt thanks to Catherine Zacharias, Legal Counsel, Office of the State Courts Administrator, and her staff, who worked with me to obtain the electronic records that form the basis for this Note—it would not have been possible without their help. The author also thanks the Missouri Judicial Records Committee, in particular the Honorable Jimmie Edwards, Chair, for approving her request for access to the records. Finally, the author thanks Helen Haskins, Court Administrator, 22nd Judicial Circuit, for setting me on the road to records access and to the 2011–12 and 2012–13 *Journal of Law & Policy* Editorial Boards for working with me to structure this Note and selecting it for publication.

1. See S.B. 379, 96th Gen. Assemb., 1st Reg. Session (Mo. 2011) and H.B. 785, 96th Gen. Assemb., 1st Reg. Session (Mo. 2011) (placing new restrictions on product liability claims); Christopher Yarbrow, *Medical Malpractice Reform Could Exact Huge Costs*, ST. LOUIS POST-DISPATCH, Feb. 24, 2011, available at [http://www.stltoday.com/news/opinion/article\\_2bbe527c-1d91-5714-9c09-0b70ee307f61.html](http://www.stltoday.com/news/opinion/article_2bbe527c-1d91-5714-9c09-0b70ee307f61.html); 2013 *Legislative Agenda*, MO. CHAMBER OF COM. & INDUSTRY, available at <http://www.mochamber.com/mx/hm.asp?id=Legislative Agenda> (last visited Dec. 27, 2012).

2. *Mo. General Assembly Sends Workers' Comp, Tort Reform Bills to Blunt*, ST. LOUIS BUS. J. (Mar. 16, 2005, 6:17 PM), [http://www.bizjournals.com/stlouis/stories/2005/03/14/daily53.html?jst=b\\_in\\_hl](http://www.bizjournals.com/stlouis/stories/2005/03/14/daily53.html?jst=b_in_hl); *Blunt Will Sign Tort Reform in St. Louis Tuesday*, ST. LOUIS BUS. J. (Mar. 28, 2005, 10:51 AM), <http://www.bizjournals.com/stlouis/stories/2005/03/28/daily8.html>.

3. Blythe Bernard & Virginia Young, *Medical malpractice cap is struck down by Missouri Supreme Court*, ST. LOUIS POST-DISPATCH (Aug. 1, 2012), available at [http://www.stltoday.com/news/state-and-regional/missouri/medical-malpractice-cap-is-struck-down-by-missouri-supreme-court/article\\_7bb71afd-add3-5cde-a253-07faade808c.html](http://www.stltoday.com/news/state-and-regional/missouri/medical-malpractice-cap-is-struck-down-by-missouri-supreme-court/article_7bb71afd-add3-5cde-a253-07faade808c.html).

4. *Watts v. Lester E. Cox Med. Ctrs.*, 376 S.W.3d 633 (Mo. 2012).

constitutional amendment to overrule the court.<sup>5</sup> Although Governor Nixon vetoed a new 2012 “reform” bill that favored defendants in human rights actions,<sup>6</sup> Missouri’s Chamber of Commerce continues to rank that proposal at the top of its 2013 legislative agenda.<sup>7</sup> The Chamber also plans to advance 2013 proposals to entirely eliminate joint and several liability for tort damages<sup>8</sup> and “reform asbestos and silica litigation practices” to “prevent unwarranted claims.”<sup>9</sup> Meanwhile, the Missouri Association of Trial Attorneys works to “protect access to [Missouri’s civil justice] system by advocating against caps on damages, systems that block access to the courts for certain types of lawsuits, and immunity for corporations or public entities when they have harmed someone.”<sup>10</sup>

Reviews of Missouri tort reform to date are decidedly mixed. Personal injury attorneys, generally viewed as Democrats,<sup>11</sup> paint themselves as defenders of the most horribly injured plaintiffs whose constitutional rights are violated by statutory restrictions on what a jury is permitted to award<sup>12</sup> and who are disproportionately punished by damages caps.<sup>13</sup> Republican elected officials and “think tanks”

---

5. Bernard & Young, *supra* note 3.

6. Press Release, Off. of Mo. Governor Jay Nixon, Gov. Nixon vetoes Senate Bill 188; says it would undermine the Missouri Human Rights Act (Apr. 29, 2011), *available at* [http://governor.mo.gov/newsroom/2011/Gov\\_Nixon\\_vetoes\\_Senate\\_Bill\\_188](http://governor.mo.gov/newsroom/2011/Gov_Nixon_vetoes_Senate_Bill_188).

7. 2013 Legislative Agenda—Civil Justice, MO. CHAMBER OF COM. & INDUSTRY, *available at* <http://www.mochamber.com/mx/hm.asp?id=CivilJustice> (last visited Dec. 27, 2012).

8. *Id.*

9. *Id.*

10. *Helping to Balance the Scales of Justice—Protection of the Civil Rights System*, MO. ASS’N OF TRIAL ATT’YS, *available at* <https://www.matanet.org/index.cfm?pg=Issues> (last visited Dec. 27, 2012).

11. *See, e.g.,* Neil Gordon, *Organizational donors: Profiles of the top organizational donors in 2003 and 2004*, CENTER FOR PUBLIC INTEGRITY (May 26, 2005, 12:00 AM) (last updated Aug. 18, 2011, 2:25 PM), <http://www.iwatchnews.org/2005/05/26/5838/organizational-donors> (last visited Dec. 29, 2012) (describing the Association of Trial Lawyers of America as an organization that “as a whole leans toward Democrats” but also supports Republicans due to its many prominent Republican members).

12. *See, e.g., Demystifying Tort Reform: Claims of “frivolous” lawsuits are wildly exaggerated*, BROWN & BROWN ATTORNEYS AT LAW, [http://brownlawoffice.com/practice\\_areas.php?display=tort\\_reform](http://brownlawoffice.com/practice_areas.php?display=tort_reform) (last visited Dec. 29, 2012).

13. *See, e.g., Missouri Narrows Tort Reform Caps, Passes on Constitutionality Questions*, HOLMAN SCHIAVONE, LLC, <http://www.kdh-law.com/Articles/Missouri-Narrows-Tort-Reform-Caps-Passes-on-Constitutionality-Question.shtml> (last visited Feb. 9, 2012) (lamenting the Missouri Supreme Court’s failure to address the constitutionality of non-economic damages

along with reputedly Republican business interests claim victory: 2005 tort reform legislation has significantly improved Missouri's business climate and lowered both the number of personal injury claims filed and the cost of professional malpractice insurance.<sup>14</sup>

But both sides of the debate may be long on rhetoric and short on data. Has tort reform really improved Missouri's business and medical services climate—or not? Has tort reform really penalized the most severely injured plaintiffs and dampened others' appetites to pursue personal injury claims—or not? Has the elimination of “venue shopping” really affected the distribution and fairness of lawsuits throughout Missouri—or not? Has tort reform in the medical malpractice arena reduced the cost of health care—or not? Has Missouri's brand of tort reform “worked” to reduce frivolous lawsuits and outrageous jury awards, thereby improving Missouri's business climate, or does Missouri need more revolutionary changes? Or should Missouri revert towards its “old” version of tort law, a litigation environment believed to be fairer by consumer advocates, disability rights groups, and plaintiff's attorneys?

This Note attempts to answer these questions by comparing the history of claims filed for the periods preceding and following the August 28, 2005 effective date of Missouri's tort reform legislation. Part II of this Note discusses the history of tort reform efforts in general and particularly in Missouri. Part III analyzes key elements

---

caps in *Klotz v. St. Anthony's Med. Ctr.*, 311 S.W.3d 752, 759–60 (Mo. 2010); reprinted in *DISABLED WORLD* (Aug. 19, 2010), <http://www.disabled-world.com/news/america/missouri/tort-reform.php>.

14. See, e.g., Matt Blunt, *How Missouri Cut Junk Lawsuits: We Showed How to Do Malpractice Reform, if Congress Wants a Model*, WALL ST. J., Sept. 22, 2009, at A3, available at <http://online.wsj.com/article/SB10001424052970204488304574426823146241800.html>; David Stokes, *Tort Reform Has Been Great for Missouri*, SHOW-ME INSTITUTE DAILY (Apr. 25, 2008, 12:25 PM), <http://www.showmedaily.org/2008/04/tort-reform-has.html> (last visited Dec. 29, 2012) (quoting Governor Blunt's *Southeast Missourian* statement that average settlement costs fell nearly 14 percent and total claims against Missouri doctors dropped by 61 percent from 2005 to 2006); John C. Hagan III et al., *Show Me Tort Reform: the Missouri Experience*, CATARACT & REFRACTIVE SURGERY TODAY, Jan. 2010, at 65, available at <http://bmc today.net/crstoday/2010/01/article.asp?f=show-me-tort-reform-the-missouri-experience>; Chris Rizo, *Missouri's Tort Reforms Credited for Decreased Litigation*, LEGALNEWSLINE.COM (Apr. 28, 2008, 11:50 PM), <http://www.legalnewsline.com/news/211563-missouris-tort-reforms-credited-for-decreased-litigation> (last visited Dec. 29, 2012) (quoting the legislative consultant for the Missouri Chamber of Commerce and Industry's assertions that the state's legal climate has improved significantly since tort reform).

and impacts of Missouri's 2005 Tort Reform Act and notes related legislation and Missouri Supreme Court decisions subsequent to passage of that Act. Part IV summarizes the Act's impacts and draws other observations and conclusions from the analysis.

## II. HISTORY

### A. *The Road to Tort Reform in Missouri*

Missouri's United States Senator John C. Danforth fired a loud and locally-heard blast in the tort reform wars in May of 1988, when he "launched into a tirade on the senate floor against some lawyers who specialize in product-liability lawsuits."<sup>15</sup> Soon after, personal injury attorneys in Missouri and around the nation rallied around then-Attorney General Jeremiah "Jay" Nixon, Danforth's opponent in the 1988 Missouri senatorial race.<sup>16</sup> Nevertheless, Danforth was handily re-elected by the largest margin ever in a contested United States Senate election.<sup>17</sup> In 1989, Danforth and other Senators introduced a bill, supported by the United States Chamber of Commerce and the National Association of Manufacturers, to reform product liability law and "speed the awarding of compensation to the victims of product-related injuries and . . . maintain [the] competitive position [of U.S. companies] in world markets."<sup>18</sup> But, viciously attacked by consumer advocate Ralph Nader as "congressional malpractice"<sup>19</sup> and filibustering Senators, that bill and its younger siblings failed to become federal law.<sup>20</sup> Continuing failure at the federal level shifted the primary tort reform battlefield to the states while federal reform proposals continued to percolate.<sup>21</sup>

---

15. *Tart Retort*, ST. LOUIS POST-DISPATCH, Mar. 28, 1988, at 9A.

16. *Trial Lawyers Support Jay Nixon*, ST. LOUIS POST-DISPATCH, May 9, 1988, at 4A.

17. Mark Schlinkmann, *GOP Savoring Danforth Win*, ST. LOUIS POST-DISPATCH, Nov. 21, 1988, at 1B.

18. Linda Eardley, *Danforth Pushes for Change*, ST. LOUIS POST-DISPATCH, July 26, 1989, at 9A.

19. Ralph Nader, *Tort 'Reform' That Injures Consumers: Danforth Plan Is A Boon For Manufacturers And A Bust For Victims Of Negligence*, ST. LOUIS POST-DISPATCH, Dec. 2, 1991, at 3B.

20. Sherman Joyce, *Product Liability Law in the Federal Arena*, 19 SEATTLE U. L. REV. 421, 422-24 (1996).

21. See, e.g., HENRY COHEN, CONG. RESEARCH SERV., 95-97 A, FEDERAL TORT

Missouri's tort reform combatants allied along much the same lines as in the federal arena, with Chambers of Commerce, doctors, and Republicans touting the benefits of tort reform while plaintiffs' attorneys, consumer advocates, and Democrats warned of tort reform's evils.<sup>22</sup> Two versions of Missouri tort reform failed in 2003 and 2004, when Democratic Governor Bob Holden vetoed bills passed by both houses of the Republican-controlled legislature.<sup>23</sup>

Then along came what tort reform opponents would call a perfect storm: in November 2004, Governor Holden, with 45 percent of the vote, was defeated in the Democratic primary by State Auditor Claire McCaskill.<sup>24</sup> McCaskill, with 48 percent of the vote, was then defeated in the general election by Republican Secretary of State Matt Blunt.<sup>25</sup> That defeat, coupled with continuing Republican retention of majorities in both legislative houses, gave Republicans control of both the legislature and the Governor's mansion for the first time in eight decades,<sup>26</sup> provoking turmoil in political fundraising circles.<sup>27</sup> And that historic convergence of Republican

---

REFORM LEGISLATION: CONSTITUTIONALITY AND SUMMARIES OF SELECTED STATUTES (updated May 23, 2002), available at <http://www.policyarchive.org/handle/10207/bitstreams/281.pdf>.

22. Heather Cole, *Earl Walker, Trial Lawyers Top Donors to Democrats; Anheuser-Busch, May Lead Republican Donors*, ST. LOUIS BUS. J. (July 27, 2003), <http://www.bizjournals.com/stlouis/stories/2003/07/28/story6.html> (explaining that the Democratic party was the big winner in plaintiffs' attorney contributions, while corporate donors generally supported Republicans, although some corporate donors supported Democratic Governor Holden for various reasons).

23. Editorial, *Take a Gamble on Tort Reform*, ST. LOUIS BUS. J. (June 8, 2003), <http://www.bizjournals.com/stlouis/stories/2003/06/09/editorial1.html?page=all> (asking Governor Holden for a special session to resolve issues after vetoing the tort reform bill); *Holden's Medical Malpractice Veto Survives*, ST. LOUIS BUS. J. (May 14, 2004), <http://www.bizjournals.com/stlouis/stories/2004/05/10/daily78.html> (reporting the Republican legislature's failure to override Governor Holden's veto of 2004 tort reform legislation).

24. *McCaskill Defeats Holden in Primary*, MO. LAW. WKLY. (Aug. 9, 2004), <http://mo-lawyersmedia.com/blog/2004/08/09/mccaskill-defeats-holden-in-primary/>.

25. *The Midwest*, WASH. POST, Nov. 4, 2004, at A41.

26. *Id.*

27. See *Tort Reform Shaping State Politics, Attorneys' Loyalty*, ST. LOUIS BUS. J. (Dec. 26, 2004), <http://www.bizjournals.com/stlouis/stories/2004/12/27/editorial2.html?page=all> (reporting unfounded rumors that the Missouri Association of Trial Attorneys had given \$500,000 to the Republican party, and speculating on Democratic fears that their stalwart donors would begin to play the field).

influence led the way, finally, to passage of Missouri's "Tort Reform Act" on March 16, 2005.<sup>28</sup>

Governor Blunt signed the Act two weeks later in a "leapfrog" across the state.<sup>29</sup> Attorneys seeking a plaintiff-friendly venue rushed to file tort claims in the City of St. Louis in time to beat the Act's effective date of August 28, 2005 and the end of venue-shopping as they knew it: 3,280 suits were filed in St. Louis City in August 2005, compared to the typical average of 400 per month.<sup>30</sup>

### *B. The Meaning of Tort Reform in Missouri*

What is tort reform in Missouri?

As in other states, Missouri's tort reform initiative was intended to make Missouri more attractive to businesses of all types by reducing the likelihood of tort lawsuits, reducing the damages plaintiffs could collect for lawsuits that were nevertheless filed, and reducing the cost of liability insurance.

In 2005, the Missouri legislature meandered through a number of permutations of a law to address these goals, settling on a Senate version of House Bill 393,<sup>31</sup> now codified in various sections of the Revised Missouri Statutes.

The new law dipped into a number of areas directly as well as tangentially related to the tort reform debate.

#### 1. The 2005 Act—Original Provisions

VENUE: The 2005 Tort Reform Act extracted tort claims from the state's existing venue statutes and created special venue rules for torts.<sup>32</sup>

---

28. See Conference Committee Substitute for Senate Substitute for Senate Committee Substitute for House Committee Substitute for House Bill No. 393, 93d Gen. Assemb., 1st Reg. Session (Mo. 2005) [hereinafter "Act," "Reform Act," "Tort Reform Act," or "House Bill 393"], available at <http://www.house.mo.gov/billtracking/bills051/billpdf/truly/HB0393T.PDF>.

29. *Blunt Will Sign Tort Reform*, *supra* note 2.

30. *City Lawsuits Jumped 720% before Tort Reform Deadline*, ST. LOUIS BUS. J. (Sept. 18, 2005), <http://www.bizjournals.com/stlouis/stories/2005/09/19/focus2.html?page=all>.

31. House Bill 393, *supra* note 28.

32. *Id.* §§ 508.010.4–508.010.14, at 5–6.

In the most dramatic of these rule changes, the Act bluntly requires that “. . . in all actions in which there is any count alleging a tort and in which the plaintiff was first injured in the state of Missouri, venue shall be in the county where the plaintiff was first injured by the wrongful acts or negligent conduct alleged . . .”<sup>33</sup> If the plaintiff is first injured outside the state, venue is in any county where a corporate defendant’s registered agent is located or, if a Missouri individual defendant, that defendant’s principal place of residence<sup>34</sup> or the plaintiff’s place of residence on the date the plaintiff was first injured.<sup>35</sup> When a county is a plaintiff, venue can either be in that county if one or more defendants can be found in that county or where a defendant resides.<sup>36</sup>

If motions are made to dismiss or transfer based on claims of improper venue, such motions are deemed granted if not denied within ninety days of filing unless all parties waive that time period.<sup>37</sup> Venue established in the new Act can only be changed if all the parties unanimously agree.<sup>38</sup>

The Act also provides that the court must, on application of any party, transfer the case to a “proper forum” if, before trial commences, a party is added or removed and that change would have altered the venue determination under section 508.010.<sup>39</sup>

**DAMAGES CAPS:** Damages caps are also a keystone of the Act: the Act caps punitive damages at the greater of \$500,000 or five times the “net amount of the judgment awarded to the plaintiff against the defendant.”<sup>40</sup> But the caps do not apply if the plaintiff is the State of Missouri or if the defendant pleads guilty to or is convicted of a felony “arising out of the acts or omissions pled by the plaintiff.”<sup>41</sup>

---

33. *Id.* at 5 (§ 508.010.4).

34. *Id.* § 508.010.5(1).

35. *Id.* § 508.010.5(2).

36. *Id.* § 508.010.6.

37. *Id.* § 508.010.10.

38. *Id.*

39. House Bill 393, *supra* note 28, at 19.

40. *Id.* at 8. On August 18, 2012, the cap on punitive damages was effectively increased by the Missouri Supreme Court, by ruling that attorney fees must be added to the amount of non-punitive damages before the five times multiplier is applied. *Hervey v. Mo. Dep’t of Corr.*, 379 S.W.3d 156, 163–65 (Mo. 2012).

41. House Bill 393, *supra* note 28, at 7.

And the caps do not apply to certain civil actions alleging discrimination where Missouri statutes authorize damages awards.<sup>42</sup> Non-economic medical malpractice damages are further limited, as discussed in detail below.<sup>43</sup>

JOINT AND SEVERAL LIABILITY: The new Act also modifies Missouri's tort-related joint and several liability stipulations.<sup>44</sup> Prior to the new Act, the parties were jointly and severally liable for the total judgment amount. However, if the trier of fact allocated a portion of fault to a judgment-proof plaintiff and any party moved for reallocation of uncollectible amounts, the statute instructed the court to reallocate the uncollectible amount among the remaining solvent parties with the insolvent party retaining continuing liability for damages and contribution.<sup>45</sup> However, no such reallocation could increase the liability of any party whose liability was less than the plaintiff's by more than a factor of two.<sup>46</sup>

Post-reform, joint and several liability for non-punitive damages applies only to those defendants found to bear fault of 51 percent or more: if a defendant bears less than 51 percent of the fault, that defendant is only responsible for its proportionate damages as determined by the trier of fact, unless that defendant is liable for another defendant's fault because the other defendant was acting as its employee or the defendant's liability for the fault of another arises from a duty created by the Federal Employers' Liability Act.<sup>47</sup> Further, defendants are only "severally liable for the percentage of punitive damages for which fault is attributed to such defendant by the trier of fact"—this seems to imply that defendants are no longer truly jointly and severally liable for punitive damages at all.<sup>48</sup> Finally,

---

42. *Id.*; see also MO. REV. STAT. § 213.111 (2012) (referencing § 213.040, which prohibits housing discrimination on the basis of race, color, religion, national origin, ancestry, sex, disability, or familial status; § 213.045, which prohibits discriminatory lending practices; § 213.050, which prohibits discriminatory practices by real estate brokers and agents; and § 213.070(3), which prohibits housing discrimination by the State and any of its political subdivisions).

43. See *infra* Part II.B.1, at MEDICAL MALPRACTICE.

44. House Bill 393, *supra* note 28, at 11–12.

45. *Id.* at 12.

46. *Id.* at 11.

47. *Id.* at 12; see also Federal Employers' Liability Act, 45 U.S.C. § 51.

48. House Bill 393, *supra* note 28, at 12.



this section of the statute now explicitly prohibits disclosure of its provisions to triers of fact.<sup>49</sup>

WRONGFUL DEATH: The new Act modifies section 537.090 relating to wrongful death actions authorized by section 537.080 by adding two rebuttable presumptions relating to future income of the deceased. First, if the deceased was not employed full time but was responsible for the care of one or more minors, disabled persons or persons more than sixty-five years of age, the value of the care provided by the deceased is rebuttably presumed to be based on 110 percent of the state's average weekly wage, regardless of the number of such persons cared for.<sup>50</sup> Second, if the deceased is under the age of eighteen, the value of the deceased person's future earnings is rebuttably calculated based on the average of the deceased's two income-earning parents or, if only one parent is earning income, that parent's income.<sup>51</sup>

MEDICAL MALPRACTICE: The new Act also expands previous malpractice action "reforms."<sup>52</sup> Missouri medical malpractice law now expressly prohibits the use of expressions of sympathy and "benevolent gestures" to patients or their families (but not statements admitting fault) as evidence in civil actions.<sup>53</sup>

The new reforms also make it more difficult to initiate medical malpractice claims. Previous Missouri medical malpractice law required a plaintiff to file an affidavit stating that the plaintiff has an opinion from a "legally qualified health care provider" that the defendant failed to use such care as a reasonably prudent and careful health care provider would have under similar circumstances and that such failure directly caused or directly contributed to cause the damages claimed.<sup>54</sup> The Reform Act imposes stricter qualifications on the "experts" who can provide such opinions, requires the plaintiff to name the expert in the affidavit, and limits the time allowed for providing the affidavit to ninety days plus one ninety-day extension.<sup>55</sup>

---

49. *Id.* at 12.

50. *Id.* at 13; *see also* MO. REV. STAT. § 287.250.

51. House Bill 393, *supra* note 28, at 13; *see also* MO. REV. STAT. § 537.080.

52. MO. REV. STAT. § 516.105.

53. House Bill 393, *supra* note 28, at 18 (new § 538.229).

54. *Id.* § 538.225, at 17.

55. *Id.*

The Act also establishes procedures for defendants to require the court to examine the actual opinion in camera and, if the court determines that the opinion does not meet the standards set forth in the Act,<sup>56</sup> the court must conduct a hearing to determine if there is probable cause to believe that a qualified provider will testify that the plaintiff was injured due to a defendant's medical negligence.<sup>57</sup> If the court finds no such probable cause, the court is required to dismiss the petition and hold the plaintiff liable for the defendant's reasonable attorney fees and costs.<sup>58</sup> Presumably this provision causes plaintiffs and their attorneys to think hard before filing medical malpractice suits at all.

The Tort Reform Act also prohibits discovery as to a defendant's assets until the trial court determines it is more likely than not that the plaintiff will be able to "present a submissible [punitive damages] case to the trier of fact."<sup>59</sup>

Pre-tort reform, a medical malpractice plaintiff could recover up to \$350,000 in non-economic damages from each defendant.<sup>60</sup> The new Act limits total non-economic damages, exclusive of punitive damages, to not more than \$350,000, regardless of the number of defendants in the lawsuit, and subsumes exemplary damages and damages for aggravating circumstances in the definition of punitive damages.<sup>61</sup>

Further, the Act limits a court's ability to flexibly structure future medical damages installments at the request of any party: unless the parties agree otherwise, the number of installments is now based solely on life expectancy evidence presented at trial by the plaintiff and United States Treasury bill rates for the auction immediately preceding the judgment.<sup>62</sup> Because Treasury bill rates are typically lower than returns that can be achieved with other investments,<sup>63</sup> the

---

56. *Id.*

57. *Id.*

58. *Id.*

59. *Id.* at 7.

60. *Id.* at 14.

61. *Id.* at 14–17 (§ 538.210–.220).

62. *Id.* at 16.

63. See, e.g., *Individual Bonds: U.S. Treasury*, FIDELITY.COM, <https://www.fidelity.com/individual-bonds/us-treasury-bonds> (last visited Apr. 4, 2013) ("Treasury bills are debt obligations issued and backed by the full faith and credit of the U.S. government.

new valuation system benefits defendants, and, because some plaintiffs may live longer than their actuarially determined life expectancy, some may spend the last years of their lives with no payments for medical services at all.<sup>64</sup> The bill is silent on whether heirs receive continuing periodic payments if an injured party dies before that party's expectancy-determined life span ends.<sup>65</sup>

The reform bill appears to completely eliminate joint and several liability for medical malpractice—no individual or entity is liable to a plaintiff for the actions or omissions of any other entity or person—and eliminates inflation increases in the damages caps.<sup>66</sup>

The Act also exempts physicians providing treatment at city, county, or non-profit health centers from liability for civil acts or omissions damages, with three exceptions: the exemption does not apply if (1) the damages arose from gross negligence or willful or wanton acts or omissions; (2) the physician maintained liability insurance other than coverage under the state legal expense fund; or (3) the damages involve abortion.<sup>67</sup> To qualify for the exemption, treatment must be certified in advance as rendered completely free of charge—the physician may not seek or receive compensation from any other party or insurer.<sup>68</sup>

The 2005 malpractice reforms significantly limit venue in medical malpractice actions: for purposes of determining venue under re-enacted section 508.010,<sup>69</sup> the plaintiff “shall be considered injured by the health care provider only in the county where the plaintiff first received treatment by a defendant for a medical condition at issue in the case.”<sup>70</sup>

In addition, the legislation creates a “rebuttable presumption that the dollar amount necessary to satisfy the financial obligation to the

---

Because they are considered to have low credit or default risk, they generally offer lower yields relative to other bonds.”).

64. See generally David Brown, *Life expectancy in the U.S. varies widely by region, in some places is decreasing*, WASH. POST (June 15, 2011), [http://articles.washingtonpost.com/2011-06-15/national/35235628\\_1\\_population-health-metrics-expectancy-christopher-j-l-murray](http://articles.washingtonpost.com/2011-06-15/national/35235628_1_population-health-metrics-expectancy-christopher-j-l-murray).

65. House Bill 393, *supra* note 28, at 16.

66. *Id.* at 15.

67. *Id.* at 18.

68. *Id.*

69. *Id.* at 4.

70. *Id.* at 18 (new § 538.232).

health care provider represents the value of the medical treatment rendered”<sup>71</sup> and allows the court to determine, based on collateral evidence and outside the jury’s hearing, the value of the medical treatment.<sup>72</sup>

The reforms also address a number of more narrowly applicable aspects of Missouri’s medical malpractice laws. First, malpractice reforms now explicitly protect any long-term care facility licensed under RSMo. Chapter 198—Convalescent, Nursing and Boarding Homes.<sup>73</sup> Second, the new revisions redefine medical test information-related negligence to exclude situations where the patient is duly informed but the tests were negligently performed or the results were erroneous.<sup>74</sup> Third, for cases involving minors, the new revisions reduce the maximum time period for filing an action to the later of ten years from the date of the allegedly negligent act or two years from the date of the minor’s eighteenth birthday—before the reform, the statute permitted such actions to be filed within ten years from the date of the minor’s twentieth birthday.<sup>75</sup>

The Act also expands the definition of medical peer review committee to specifically include health care professionals employed by universities and university-affiliated health care entities and those appointed by authorized representatives of “long-term care facilities,” expands privileges applicable to the materials produced by such committees, and explicitly states that proper or improper disclosure to any person or entity does not waive privileges.<sup>76</sup>

**OTHER CHANGES:** First, the 2005 Tort Reform Act makes service of process easier for everyone.<sup>77</sup>

Second, the Act sets the rate at which interest accrues on unpaid tort awards at 5 percent more than the Federal funds rate,<sup>78</sup> fixed in

---

71. *Id.* at 3–4 (new § 490.715.5).

72. *Id.*

73. *Id.* at 13 (revisions to § 538.205); *see also* MO. REV. STAT. § 198 (2012).

74. House Bill 393, *supra* note 28, at 9.

75. *Id.*

76. *Id.* at 9–11 (§ 537.035).

77. *Id.* at 1–2 (new § 355.176).

78. The Federal funds rate is “the interest rate that banks with excess reserves at a Federal Reserve district bank charge other banks that need overnight loans . . . [and] often points to the direction of US interest rates. The most sensitive indicator of the direction of interest rates,

the judgment document and unchanged thereafter.<sup>79</sup> Non-tort judgments continue to accrue interest at a flat 9 percent.<sup>80</sup>

Today, the Federal funds rate hovers near zero percent—plaintiffs who receive awards involving multi-year payouts during this historically low interest period will be disadvantaged if interest rates and inflation rise during the payout term.<sup>81</sup> Prejudgment interest from initial demand or settlement offer is permitted, but only if such an offer is made in accordance with the fairly stringent requirements of the Act<sup>82</sup> and a cause of action is filed within 120 days of the offer.<sup>83</sup> Prejudgment interest is limited to 3 percent more than the Federal funds rate, again fixed by the court in the judgment.<sup>84</sup>

Third, the Act provides that it supersedes the Missouri Rules of Civil Procedure where the two conflict.<sup>85</sup>

Fourth, unless a plaintiff proves a defendant is hiding or sequestering assets to avoid payment of the judgment, the Act caps appeal bond or other surety device amounts at \$50 million and allows the court to reduce the ordinarily required amount of a bond under circumstances specified in the Act.<sup>86</sup>

Finally, the Act combines plaintiffs to further limit some non-economic damages payments: spouses are construed as one plaintiff for purposes of loss of consortium damages, as are all entities asserting wrongful death claims.<sup>87</sup>

---

since it is set daily by the market, unlike the prime rate and the discount rate.” NASDAQ, <http://www.nasdaq.com/investing/glossary/f/federal-funds-rate> (last visited Dec. 29, 2012).

79. House Bill 393, *supra* note 28, at 2.

80. *Id.* at 2–3 (§ 408.040).

81. In the early 1980s, the effective Federal funds rate exceeded 10 percent; today, the effective Federal funds rate hovers around zero percent. Board of Governors of the Federal Reserve System, *Effective Federal Funds Rate*, FEDERAL RESERVE BANK OF ST. LOUIS, <http://research.stlouisfed.org/fred2/series/FEDFUNDS> (last visited Dec. 29, 2012).

82. House Bill 393, *supra* note 28, at 2–3 (§ 408.040, changing the allowable rate at which interest accrues on unpaid tort judgments and the conditions upon which and rate at which prejudgment interest accrues).

83. *Id.*

84. *Id.*

85. *Id.* at 6 (new § 508.011).

86. *Id.* at 8 (new § 512.099).

87. *Id.* at 15–16 (§ 538.210).

## 2. Interpretations and Modifications of the 2005 Act

APPLICABILITY: Per its terms, the Act applies to all causes of action filed after August 28, 2005.<sup>88</sup> In 2010, the Missouri Supreme Court further limited the Act's application, holding that the new non-economic damages cap established by House Bill 393 may not be applied to causes of action that accrued before the Act's 2005 effective date because "the Missouri constitution prohibits laws that are retrospective in operation."<sup>89</sup>

VENUE: In September 2007, the Missouri Supreme Court addressed how the other venue-related provisions of the Reform Act interact with court rules. The state supreme court determined that Court Rule 51.03, permitting an automatic change of venue when the prescribed venue is a county with a population of less than 75,000,<sup>90</sup> did not conflict with or contradict the Act's new requirement that venue is where a Missouri-based plaintiff was first injured by the wrongful acts or negligent conduct alleged.<sup>91</sup> In other words, venue can be automatically changed based on the state supreme court's "less than 75,000 population" rule, even though the new Act might be construed to prohibit that reassignment.<sup>92</sup> The court observed that the Missouri legislature knew full well how to explicitly prohibit a change of venue when it desired such a prohibition and had not done so in the 2005 Act.<sup>93</sup>

MEDICAL MALPRACTICE DAMAGES CAP: As noted above, Missouri's highest court ruled in July 2012 that the Act's cap on non-economic medical malpractice damages offends Missouri's

---

88. *Id.* at 19.

89. *Klotz v. St. Anthony's Med. Ctr.*, 311 S.W.3d 752, 759–60 (Mo. 2010) (relying on *State ex rel. St. Louis-San Francisco Ry. Co. v. Buder*, 515 S.W.2d 409, 411 (Mo. 1974) and *Doe v. Phillips*, 194 S.W.3d 833, 850 (Mo. 2006)); *see also* House Bill 393, *supra* note 28, at 14–15.

90. Mo. Sup. Ct. R. 51.03; *State ex rel. Audrain Healthcare, Inc. v. Sutherland*, 233 S.W.3d 217, 218–19 (Mo. 2007); *see also* House Bill 393, *supra* note 28 (revisions to § 580.010).

91. House Bill 393, *supra* note 28, at 5 (§ 508.010.4).

92. *Id.*

93. *Audrain Healthcare*, 233 S.W.3d at 218.

constitution and struck down that portion of the law.<sup>94</sup> Assessments of the potential impact of this recent decision are mixed.<sup>95</sup>

Further, although a 2012 review of the constitutionality of the Act's venue provisions seemed likely, that opportunity was thwarted by a settlement prior to oral argument.<sup>96</sup> Those provisions will almost certainly be tested in a future Missouri Supreme Court case.

### III. ANALYSIS

On August 28, 2010, Missouri celebrated (depending on one's perspective) the fifth anniversary of the effective date of the 2005 Tort Reform Act.<sup>97</sup> Thus, five years of post-reform data are available to study the Act's impacts. Those records establish that tort reform has significantly reduced the number of tort actions filed in Missouri and distributed the remaining actions more uniformly throughout the state.<sup>98</sup> Unfortunately, the database is not sufficiently complete to permit a constructive analysis of judgments for and against plaintiffs and the amounts of judgments and settlements pre- and post-reform.<sup>99</sup>

**BACKGROUND:** Missouri has a total of 115 counties and forty-five judicial circuits.<sup>100</sup> Since Missouri's six million people are not evenly distributed throughout its counties,<sup>101</sup> thirty-five of the forty-five judicial circuits encompass more than one county:<sup>102</sup> fifteen circuits

---

94. *Watts*, 376 S.W.3d at 637–46.

95. See, e.g., Bernard & Young, *supra* note 3; Brett Emison, *Guest commentary: Court got malpractice decision right*, ST. LOUIS POST-DISPATCH (Aug. 10, 2012), [http://www.stltoday.com/news/opinion/guest-commentary-court-got-malpractice-decision-right/article\\_b1d88c00-906d-51ce-b02e-18ead9861828.html](http://www.stltoday.com/news/opinion/guest-commentary-court-got-malpractice-decision-right/article_b1d88c00-906d-51ce-b02e-18ead9861828.html).

96. Scott Lauck, *Challenge to venue law settles before argument*, MO. LAW. WKLY., Dec. 3, 2012, at 5, available at <http://molawyersmedia.com/blog/2012/12/01/challenge-to-venue-law-settles-before-argument/>.

97. House Bill 393, *supra* note 28, at 8, 19.

98. See *infra* App. A, Figs. 3–4, Tbl. 1.

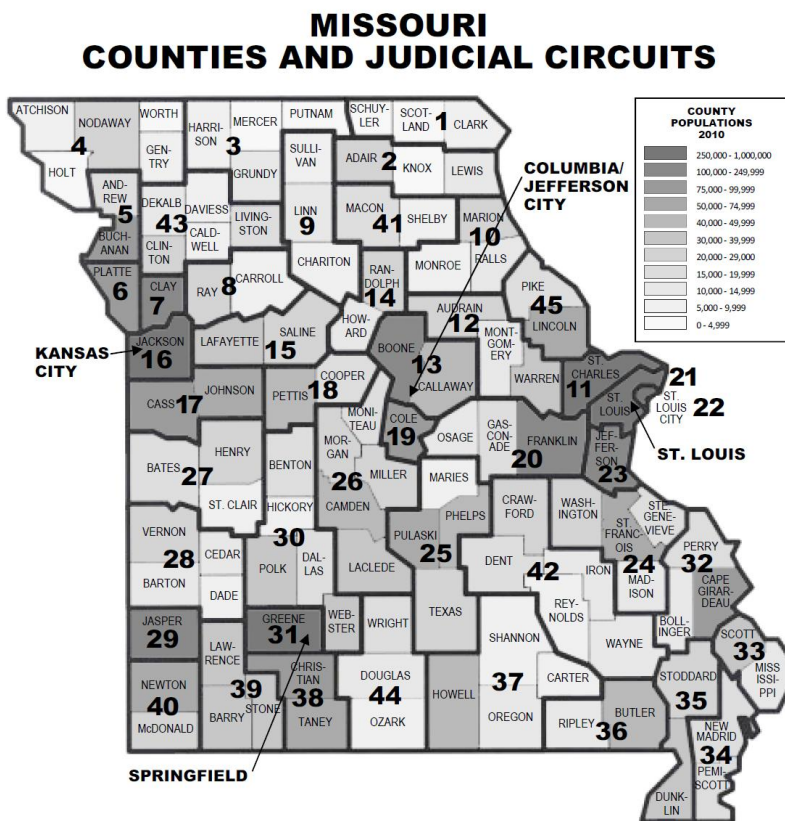
99. *Id.*

100. Map published by Missouri Office of the State Court Administrator at <http://www.courts.mo.gov/page.jsp?id=321> (last accessed Dec. 29, 2012) (shading, population data, and larger titles added by author); 2010 Decennial Census, U.S. BUREAU OF THE CENSUS, Table GCT-PH1, available at [http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_SF1\\_GCTPH1.ST05&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_SF1_GCTPH1.ST05&prodType=table) (select “Missouri” in geography drop-down menu) (last accessed Dec. 29, 2012).

101. At the time of the 2010 census, Worth County had only 2,171 people while St. Louis County had nearly one million. 2010 Decennial Census, *supra* note 100.

102. See 2010 Decennial Census, *supra* note 100.

include two counties each, ten include three counties, five include four counties and five include five counties.<sup>103</sup> The map below shows relative populations of the various counties and groupings into judicial circuits.<sup>104</sup>



**DATA ACCESS:** Statewide records on all Missouri court filings are maintained by the Office of the [Missouri] State Court Administrator

103. See *Your Missouri Courts*, OFF. OF THE [MO.] ST. CT. ADMIN., <http://www.courts.mo.gov/page.jsp?id=233>; see also *Missouri CaseNet*, OFF. OF THE [MO.] ST. CT. ADMIN., <https://www.courts.mo.gov/casenet/base/welcome.do> (both last accessed Dec. 30, 2012).

104. The map is based on sources cited *supra* note 100.



(“OSCA”);<sup>105</sup> release of that data is governed by rules promulgated by the Missouri Supreme Court.<sup>106</sup> Those rules provide that bulk distribution of records shall be made only upon approval of the Missouri State Judicial Records Committee (“SJRC”) and only for non-commercial purposes.<sup>107</sup> The Committee’s membership is comprised of twelve state judges from circuits throughout the state.<sup>108</sup> The Committee made the data used in this analysis available to the author of this Note.<sup>109</sup>

**DATA UTILITY:** The database’s utility for analyzing the 2005 Tort Reform Act’s effectiveness in terms of number and distribution of tort cases throughout the state is excellent.<sup>110</sup> But, because dispositions and judgments are not consistently recorded, the database is not useful for analyzing the impact of tort reform on the amounts and frequencies of plaintiff and defendant successes.<sup>111</sup>

---

105. *Your Missouri Courts*, OFF. OF THE [MO.] ST. CT. ADMIN., <http://www.courts.mo.gov/page.jsp?id=233>; see also *Missouri CaseNet*, OFF. OF THE [MO.] ST. CT. ADMIN., <https://www.courts.mo.gov/casenet/base/welcome.do> (both last accessed Dec. 30, 2012).

106. Mo. Ct. Operating R. 2: Public Access to Records of the Judicial Department (adopted Aug. 24, 1998, last revised effective July 1, 2012, effective Jan. 1, 2012), available at <http://www.courts.mo.gov/courts/ClerkHandbooksP2RulesOnly.nsf/e2aa3309ef5c449186256be20060c329/dc2e80286afa4ad286256ca60051dee2?OpenDocument>.

107. *Id.* at 2.10.

108. Letter from the Honorable Jimmie Edwards, Chair, Mo. State Jud. Records Comm., to author (Dec. 12, 2011) (footer listing committee members) (maintained in author’s files and attached as Appendix B to this Note).

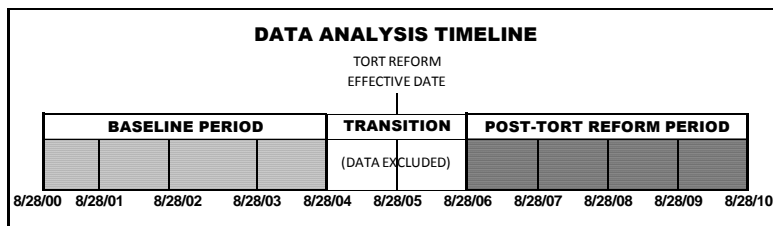
109. *Id.* (evidencing the State Judicial Records Committee’s approval of the author’s request for a bulk distribution of case records for use in this Note). Records for all cases classified as torts and filed in the Missouri Circuit Court system from July 1, 2000 through June 30, 2011 were made available on January 3, 2012, and received on January 9, 2012. Data fields received include the circuit and county in which the case was filed, the initial filing date, the disposition date, the case identification number, the tort sub-classification (wrongful death, five personal injury sub-classifications—malpractice, product liability, vehicular, federal employment liability, and “other personal injury”—property damage, asbestos, bulk tort damages, employment discrimination and public accommodations pursuant to Mo. Rev. Stat. § 213.111—and “other torts”) and some data on the amounts of “judgments against.” The data also indicate whether the case was assigned to a circuit judge or to an associate.

110. See *infra* App. A, Figs. 3–4, Tbl. 1.

111. Staff in Missouri’s forty-five judicial circuits enter data on each case in a common tracking system and submit that data to OSCA. Because an individual responsible for entering the data in one circuit may not always sub-classify a case using the same thought process as that individual’s counterparts in other circuits, sub-classification data may be less reliable than a case’s primary classification as a tort. Further, “judgment against” data is not always entered by circuit court staff, presumably due to extremely high case volumes in some circuits and the variety of case dispositions possible—of the 187,046 tort filings in the eleven-year time period

Due to these data limitations, the following analysis focuses on evaluating the number of tort filings and the distribution of those filings throughout Missouri's forty-five judicial circuits before and after comprehensive tort reform in 2005.

**METHODOLOGY:** As noted above, a number of attorneys rushed to file tort actions in circuits perceived as favorable to plaintiffs in the days immediately preceding the August 2005 effective date of the new Reform Act: in the City of St. Louis, that rush produced a 720 percent increase in pre-effective date filings.<sup>112</sup> In addition to skewing the filing data for the year immediately prior to the Act's effective date, this phenomenon also presumably produced an anomalously lower number of filings in the year immediately after the Act's effective date. To account for this "transition period," the analysis presented in this Note excludes the one-year periods immediately before and immediately after August 28, 2005, but includes the four years immediately preceding and the four years immediately following that "transition period" as illustrated below.



**TORT REFORM IMPACTS:** The 2005 Act significantly reduced the overall numbers of tort filings in Missouri courts: the annual number of such filings in the "baseline" period averaged 17,698 per year,

---

for which data was received, "judgment against" amounts were recorded for only 15,424, or 8.25 percent. "Judgments against" amounts will obviously not be recorded in those situations where the case was settled, the factfinder sided with the defendant, or the case was dismissed, but it is unlikely that the number of judgment amounts entered into the database reflects all judgments against. Because the available data is not useful for analyzing the impact of Missouri's tort reform on the amounts and frequencies of plaintiff successes, the Conclusion section *infra* discusses no-cost methods of improving the comprehensiveness of case disposition data. Data maintained in author's files.

112. See *City Lawsuits Jumped 720%*, *supra* note 30.

while annual filings in the “post-reform” period averaged 14,865—a significant decline of 16 percent.<sup>113</sup>

The Act’s impact on distribution of tort filings throughout Missouri is even more dramatic. When analyzed by county and circuit of filing, comparison between the above “baseline” and “post-tort reform” periods reveals a dramatic shift in filing venue, illustrated below.<sup>114</sup>

The number of tort filings in the more populous circuits can be expected to exceed such numbers in less populous circuits, simply because more potential litigants and more litigation-spawning activity are located in those populous circuits. Pre-reform, however, the number of filings in the most populous circuits was extraordinarily disproportionate to the populations and numbers of jobs and businesses in those circuits. Post-reform, disproportionality remains but is far less egregious than in the baseline period.<sup>115</sup>

Pre-reform, the top five circuits accounted for 43.9 percent of Missouri’s six million people,<sup>116</sup> 56.4 percent of Missouri’s 2.6 million jobs<sup>117</sup> and 47.4 percent of Missouri’s 160,000 businesses.<sup>118</sup> But a lopsided 77.5 percent of Missouri tort cases were filed in those circuits—a discrepancy ranging from 20 percent in terms of businesses to nearly 35 percent in terms of population.<sup>119</sup> Post-reform, the percentage of Missouri tort filings in those top circuits dropped to 66.8 percent—a nearly 11 percent overall reduction.<sup>120</sup>

---

113. See *supra* note 111 text; see also *infra* App. A, Tbl. 1.

114. See *infra* App. A, Figs. 3–4, Tbls. 1–3.

115. See *infra* App. A, Tbls. 2–3.

116. 2010 Decennial Census, *supra* note 100; see also population aggregations maintained in author’s files.

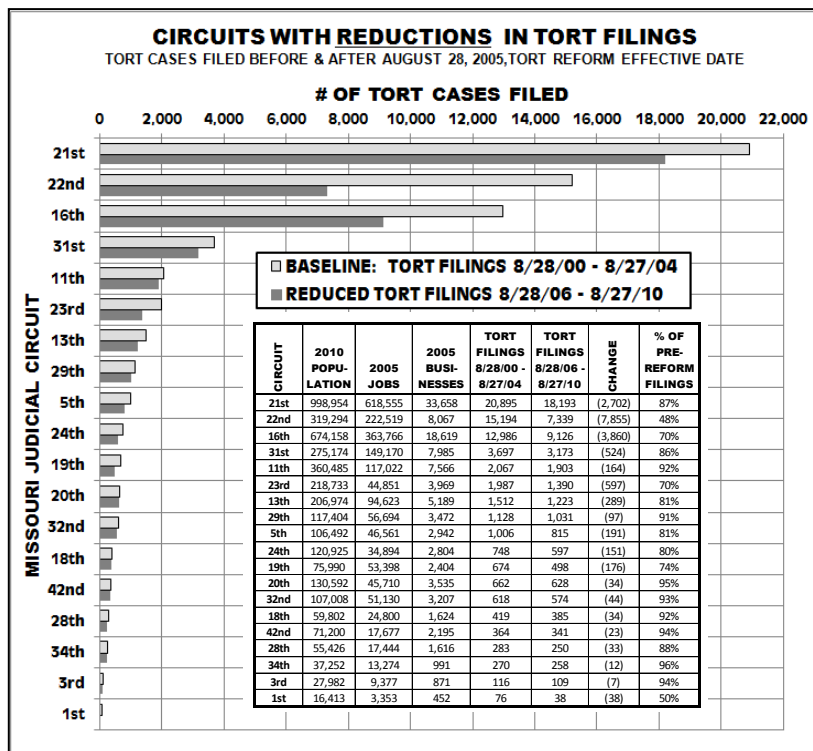
117. 2005 Quarterly Census of Employment and Wages, U.S. BUREAU OF LABOR STAT. (download [ftp://ftp.bls.gov/pub/special.requests/cew/2005/2005.all.county\\_high\\_level.zip](ftp://ftp.bls.gov/pub/special.requests/cew/2005/2005.all.county_high_level.zip), extract employment and business establishments data for Missouri and Missouri counties) (last accessed Dec. 30, 2012); see also employment and business establishment aggregations by county and circuit maintained in author’s files.

118. *Id.*

119. Data download maintained in author’s files, *supra* note 109; see also author’s aggregations, tables and graphs prepared from that data download, included in this Note and maintained in author’s files; circuit county composition map, *supra* note 100; and 2005 county, employment, and business establishment, *supra* notes 100, 116 and 117 and accompanying text.

120. See *supra* note 119 and accompanying text.

As the graph below illustrates, the reduction was particularly significant in the 22nd Circuit—the City of St. Louis. Pre-reform, that circuit’s 3,800 average annual tort filings accounted for 21.5 percent of the total in the state.<sup>121</sup> Post-reform, average annual filings dropped by more than 50 percent, to slightly more than 1,800 per year, or 12.3 percent of the total post-reform state filings.<sup>122</sup> A less dramatic but significant reduction, from 18.3 percent of the state’s total to 15.3 percent of the state’s total, also took place in Jackson County, where a significant portion of the land area is occupied by a portion of the City of Kansas City.<sup>123</sup>



121. *Id.*

122. *Id.*

123. *Id.*; see also *Regional Planning Boundaries in Greater Kansas City*, MID-AMERICA REGIONAL COUNCIL (Dec. 2010), available at [http://marc.org/gis/assets/Planning\\_boundaries.pdf](http://marc.org/gis/assets/Planning_boundaries.pdf) (last visited Dec. 30, 2012).

In the other three largest circuits, the overall number of tort filings decreased in keeping with the statewide reduction in total filings, but the percentage of total state filings increased slightly as filings migrated from the urban to the suburban portions of Missouri's metropolitan areas.<sup>124</sup>

As reflected in the pre-reform distribution of tort filings,<sup>125</sup> many tort plaintiffs and their attorneys believe, regardless of whether that belief is fact or fiction, that chances of a hefty plaintiff's verdict are far better in front of a so-called inner-city jury.<sup>126</sup> Post-reform venue limitations make it far more difficult for Missouri plaintiffs to access those juries if their injuries do not occur in the "inner cities," so filing venues have shifted to other jurisdictions, suburban and rural, throughout the state.<sup>127</sup> As the chart below illustrates, the data also demonstrate that in many of the smaller circuits, post-reform filings have increased both as a percentage of total Missouri filings and in raw numbers: of the reduced number of total Missouri tort cases, many have been "displaced" from the larger inner-city circuits and migrated to smaller rural districts.<sup>128</sup>

---

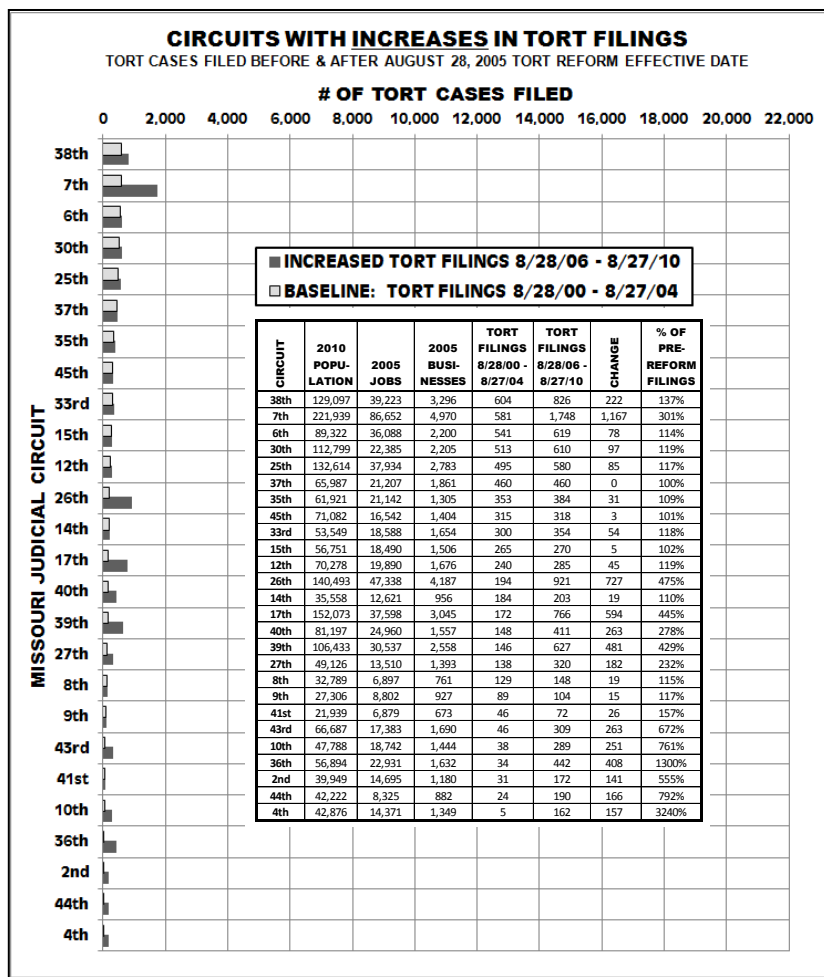
124. See *supra* note 119 and accompanying text.

125. See *infra* App. A, Figs. 3–4, Tbl. 1.

126. *Show Me Tort Reform: the Missouri Experience*, *supra* note 14 ("Inner-city juries in St. Louis and Kansas City are much more sympathetic to plaintiff's cases than out-of-state juries. Quirky state law allowed tort lawyers from all over Missouri to move their trials to these two venues.").

127. Data maintained in author's files; see also tables and graphs prepared from that data download and included in this Note and Appendix A.

128. *Id.*



In addition to labeling cases broadly as torts, the database also “sub-classifies” filings more narrowly within the overall tort classification, as medical malpractice, property damage, civil rights, etc.<sup>129</sup> But the manner in which tort filings are “sub-classified” may vary from circuit to circuit depending on the quality of case file

129. See *supra* notes 109, 127.

scrutiny performed by court staff. Data may also reflect new sub-classifications added during the time periods examined. Thus, sub-classification comparisons may not provide a completely accurate reflection of the amount of actual change within narrower sub-classes. For example, a grand total of one “bulk tort damages” case was filed in the baseline period, while a total of 5,257 such cases were filed in the post-reform period.<sup>130</sup> That change is clearly anomalous, indicating that something other than tort reform has influenced distribution within sub-classes. But, in relatively clear-cut sub-classifications, the data seem to be instructive.

**MEDICAL MALPRACTICE:** As described in Part II, the 2005 Tort Reform Act severely limited damages available in malpractice actions and made such actions more difficult to pursue. Presumably as a result of these changes, malpractice filings dropped 30 percent throughout the state.<sup>131</sup> In St. Louis City, where medical facilities provided more than 16 percent of the jurisdiction’s 222,000 jobs in 2010,<sup>132</sup> the number of malpractice filings dropped by 65 percent.<sup>133</sup> At the same time, Greene County, generally considered a rural area even though home to the major city of Springfield, experienced a 30 percent increase in malpractice filings—medical facilities account for nearly 16 percent of that county’s 149,000 jobs.<sup>134</sup>

Many other rural circuits experienced even more significant increases in medical malpractice filings, presumably reflecting stringent post-reform medical malpractice venue constraints.<sup>135</sup>

**WRONGFUL DEATH:** Overall, wrongful death filings decreased by 23 percent.<sup>136</sup> While some overlap between malpractice and wrongful

---

130. See data analysis maintained in author’s files.

131. See *infra* App. A, Tbl. 4.

132. *Quarterly Census of Employment and Wages*, U.S. BUREAU OF LABOR STAT., <http://data.bls.gov/pdq/querytool.jsp?survey=en> (select state = Missouri; area = St. Louis City; in industries, select “NAICS 621 Ambulatory health care services” and “NAICS 622 Hospitals”; select ownerships = federal, state and local governments and private; select all establishment sizes; select all employees; select “get data” and aggregate) (last accessed Jan. 21, 2012); see also data download and aggregations maintained in author’s files; see also tables and graphs prepared from that data download and included in this Note.

133. See *infra* App. A, Tbl. 4.

134. See *supra* note 132 (use note 132’s data extraction process but substitute Greene County for St. Louis City) and *infra* App. A, Tbl. 4.

135. See *infra* App. A, Tbl. 4.

136. See *infra* App. A, Tbl. 5.

death filings is likely, the most significant decreases among large counties seem to have occurred in Jackson County (62 percent) and Greene County (55 percent).<sup>137</sup> Again, many rural low-population circuits experienced significant increases in wrongful death actions that likely reflect stringent post-reform venue constraints.<sup>138</sup>

**OTHER PERSONAL INJURY TORTS:** The remaining OSCA personal injury categories—product liability, vehicular, and other—are analyzed as a group. Overall, tort filings in these categories decreased by 11 percent.<sup>139</sup> City of St. Louis filings decreased by 49 percent, while filings in other counties in the metropolitan area increased: St. Louis County by nearly 14 percent and St. Charles County by 8.5 percent.<sup>140</sup> Pre-reform, St. Louis City recorded the largest number of “other personal injury” tort filings in Missouri; post-reform, St. Louis County now holds that dubious rank.<sup>141</sup> As with the sub-classifications discussed above, these “other personal injury” torts increased significantly in a majority of the rural circuits.<sup>142</sup>

**PROPERTY DAMAGE:** Property damage tort claims decreased by 9 percent overall, and, in four of the five circuits with the largest numbers of pre-reform property damage claims, in significant percentages, ranging from 42 percent in the City of St. Louis to 61 percent in the 13th Circuit—that circuit includes the Jefferson City-Columbia area counties of Boone and Callaway.<sup>143</sup>

In St. Louis County, property damage tort claims increased by nearly 500 percent.<sup>144</sup> Interestingly, in raw numbers, the increase in St. Louis County claims (1,467 over the four-year post-reform data period) is roughly equal to St. Louis City’s decrease (1,363).<sup>145</sup> Presumably this shift again reflects the Act’s more stringent limitations on venue choice.

---

137. *Id.*

138. *Id.*

139. *See infra* App. A, Tbl. 6.

140. *Id.*

141. *Id.*

142. *Id.*

143. *See infra* App. A, Tbl. 7.

144. *Id.*

145. *Id.*



In rural circuits, the pattern of migration for property damage torts is less pronounced than for other types of torts, perhaps reflecting the relatively low numbers of such claims both before and after reform.<sup>146</sup>

The number of tort filings in the property damage classification statewide decreased by 9 percent, compared to the 16 percent reduction in statewide tort filings overall.<sup>147</sup> It is possible that the typical property damage claim involves a smaller amount of money than a claim involving human life and the Reform Act's damages caps may have consequently had less impact on such lower value torts.<sup>148</sup> But it is also possible that changes in circuit staff sub-classification methodology may account for the apparent discrepancy.<sup>149</sup>

OTHER TORTS: It is likely that methodology changes also account for much of the apparent change in the catch-all "other tort" sub-classification. Based strictly on the data, filings sub-classified as "other torts" appear to have decreased by a staggering 53 percent.<sup>150</sup> However, as noted earlier, filings classified as "bulk tort damages" increased dramatically in the post-reform period from only one claim in the four pre-reform data years to 5,257 post-reform.<sup>151</sup> The vast majority of the changes in the "other torts" and "bulk tort" categories took place in St. Louis County: "other torts" decreased by more than 10,000 filings, while "bulk torts" increased by 5,218.<sup>152</sup> If those "bulk torts" are added back to the "other torts" sub-classification, the overall post-reform reduction in "other torts" is a more plausible 27 percent.<sup>153</sup>

---

146. *See infra* App. A, Tbl. 7.

147. *Id.*

148. *See generally* FAQ Detail: How high are the damage awards for plaintiffs who prevail in general civil trials?, BUREAU OF JUST. STAT., <http://bjs.gov/index.cfm?ty=qa&iid=422> (last visited Apr. 5, 2013) (graph showing that in 2005 the median motor vehicle plaintiff's award was approximately \$25,000 while the median medical practice award was approximately \$400,000).

149. *Id.*

150. *See infra* App. A, Tbl. 8.

151. *Id.*

152. *Id.*

153. *Id.*

Finally, although the raw numbers of filings involved are relatively small, two categories—*asbestos torts* and *torts relating to violations of federal employment and state public accommodations laws*—did not experience post-reform filing decreases.<sup>154</sup>

**ASBESTOS:** Asbestos claims held relatively constant at approximately one hundred filings per year across the state both pre- and post-reform, although filing distribution changed: numbers of claims increased in the smaller circuits.<sup>155</sup>

**PUBLIC ACCOMMODATIONS AND EMPLOYMENT:** More interesting is the fact that public accommodations and employment-related torts increased overall by 17 percent.<sup>156</sup> Pre-tort reform, only ten of the forty-five circuits experienced any such filings at all, and the four-year total of 1,724 pre-reform claims were concentrated primarily in St. Louis City and Jackson County/Kansas City.<sup>157</sup> Post-reform, forty-two of the forty-five circuits experienced one or more such claims.<sup>158</sup> Although it is difficult to say definitively without more detail on particular cases, it is likely that the Reform Act's exemption of housing-related discrimination claims from damages caps<sup>159</sup> contributed to the increase and that new venue constraints applicable to all torts impacted the distribution of these claims more broadly throughout the state.

But, as noted above, tort reform advocates have now set their sights on reforming Missouri's public accommodations and employment laws to more closely mirror federal law.

**OTHER RELATED IMPACTS:** The unintended consequences of 2005 changes to Missouri's workers compensation laws may, to some extent, have offset the Act's impact in reducing tort claims: the

---

154. Data and aggregations maintained in author's files.

155. *Id.*

156. *See infra* App. A, Tbl. 9.

157. *Id.*

158. *Id.*

159. House Bill 393, *supra* note 28, at 8. *See also* MO. REV. STAT. § 213.111, available at <http://www.moga.mo.gov/statutes/C200-299/2130000111.HTM>; MO. REV. STAT. § 213.040, available at <http://www.moga.mo.gov/statutes/C200-299/2130000040.HTM>; MO. REV. STAT. § 213.045, available at <http://www.moga.mo.gov/statutes/C200-299/2130000045.HTM>; MO. REV. STAT. § 213.050, available at <http://www.moga.mo.gov/statutes/C200-299/2130000050.HTM>; MO. REV. STAT. § 213.070, available at <http://www.moga.mo.gov/statutes/C200-299/2130000070.HTM>.

workers compensation law changes make it possible, at least until legislators and/or courts address those consequences, for injured workers to file civil tort actions where remedies were previously limited by older versions of workers compensation statutes.<sup>160</sup> Reductions in numbers of personal injury torts might be even greater than shown by the data if filings for injuries that would otherwise have been confined to workers compensation claims are excluded.

#### IV. CONCLUSION

It is clear from analysis of available data that Missouri's 2005 Tort Reform Act has dramatically reduced the overall number of tort filings across the state.<sup>161</sup> Observers can also infer from the data that both damages caps and venue changes have played a role in that reduction: in actions relating to housing discrimination pursuant to section 213.111 R.S. Mo.,<sup>162</sup> exempt from the 2005 damages caps, filings have increased, bucking the trend.<sup>163</sup>

It is also clear that tort reform has dramatically redistributed the remaining tort actions nevertheless filed.<sup>164</sup> Before 2005, most tort filings were concentrated in the state's urban areas, particularly in "inner cities" where plaintiffs and their attorneys believed juries were more sympathetic. The dramatic post-reform filing reductions in those urban areas demonstrate that reform has drastically altered the ability of plaintiffs to bring suit in jurisdictions perceived as plaintiff-friendly, eliminating some tort actions altogether and forcing those that remain into venues (often rural) that previously experienced little such activity.<sup>165</sup>

---

160. Christine Simmons, *Accidental injury standard must be reviewed, court says—Lawyers say ruling is result of 2005 changes to workers' comp*, MO. LAW. WKLY. (Dec. 19, 2011), <http://molawyersmedia.com/blog/2011/12/19/accidental-injury-standard-must-be-reviewed-court-says/>; see also Veto Message—Senate Substitute for Senate Committee Substitute for Senate Bill 572, Off. of Mo. Governor Jay Nixon (Mar. 16, 2012), available at <http://governor.mo.gov/newsroom/pdf/2012/sb572veto.pdf>; David A. Lieb, *State GOP to tackle workers' compensation*, MO. LAW. WKLY., Dec. 31, 2012, at 5.

161. See generally *supra* Part III.

162. House Bill 393, *supra* note 28, at 8; see also MO. REV. STAT. § 213.111, available at <http://www.moga.mo.gov/statutes/C200-299/2130000111.HTM>.

163. See *infra* App. A, Tbl. 9.

164. See generally *supra* Part III.

165. See generally *supra* Part III; and *infra* App. A, Figs. 1, 3–4, Tbl. 1.

Whether such redistribution is positive or negative depends on the observer's perspective. Those who favor unfettered access to tort justice view such reduction and redistribution as an unwarranted restriction on plaintiffs' rights, while defendants who felt beleaguered by frivolous pre-reform lawsuits view the reduction and redistribution as a plus. Jurisdictions previously burdened with lawsuits bearing little relationship to activities within their court systems welcome the redistribution: it eases overloaded dockets and allows those overburdened systems to focus on other problems, like crime, that more immediately concern their citizens. Tort reform has also presumably made inner city jurisdictions less susceptible to discrimination by corporations who fear the wrath of plaintiff-friendly juries in slip-and-fall cases. But some legislators fear that the recent *Watts* decision striking down medical malpractice damages caps<sup>166</sup> on top of 2005 venue restrictions that force medical malpractice torts back into rural areas will actually hurt Missouri's rural population by making it even harder for such areas to attract and retain doctors.<sup>167</sup>

The dramatic reduction in the number of tort cases has also likely impacted the business of litigation and contributed to the legal industry's "recession."<sup>168</sup>

With the Act's damages caps, tort reform advocates also intended to reduce monetary impacts on unsuccessful tort defendants, particularly corporate defendants. But reform's impacts on this aspect of the agenda are far harder to measure.

As noted earlier, the state database does not include complete or reliable data on tort litigation outcomes—and for very good reasons. Many judicial staffs at the circuit level are overburdened, and even those who are not do not always classify cases consistently. Determining the amount of a judgment or settlement often requires

---

166. *Watts*, 376 S.W.3d at 637–46.

167. Bernard & Young, *supra* note 3; but see Jeffrey A. Herman, *Physicians shouldn't fear end of damages cap*, MO. LAW. WKLY., Sept. 10, 2012, at 8.

168. See generally *Employment of Workers on Nonfarm Payrolls Monthly Data Not Seasonally Adjusted*, MO. ECON. RES. & INFO. CENTER, <http://www.missourieconomy.org/industry/ces/default.aspx> (last visited Apr. 5, 2013) (in January 2013, 19,800 people were employed in the legal services industry in Missouri, down nearly 8 percent from a high of 21,500 in January 2007).

close reading of the actual court documents<sup>169</sup>—a task that often exceeds the research and data entry capacity of overburdened staffs.

*Missouri Lawyers Weekly*, the go-to “trade publication” for Missouri attorneys,<sup>170</sup> tracks outcomes in far more detail and includes verdicts and amounts for both jury and bench trials as well as some settlement results. But that database is relatively new, with its first records originating in 2005.<sup>171</sup> And, presumably because the publication focuses on particularly newsworthy outcomes and those that attorneys “self-report,” the database includes only a small fraction of total tort cases: from 2005 through the end of 2011, the database catalogued roughly 1,500 results for all varieties of tort and non-tort actions, less than 3 percent of the filings in the post-reform data period analyzed above.<sup>172</sup> The lack of readily available prevailing party and monetary award data makes it impossible to reliably measure the impact of tort reform on monetary damages impacts. Lack of coordination between appeals tribunal databases and trial court databases also makes it difficult to determine whether trial court outcomes were reversed on appeal.

This state of affairs presents the opportunity for improving the consolidation, accuracy, and utility of data in Missouri’s judicial records system. The state court administrator’s office has already taken major steps towards improving data quality and availability,

---

169. For example, in Jackson County Case No. 02CV235322 involving a hog farm and a March 22, 2010 verdict for neighbors harmed by smell, the “amount of judgment” data field says only “see text.” In this relatively recent example, the total amount of the verdicts for the fifteen plaintiffs can be determined by reading the text of the .pdf “judgment entered” file available on the website, but that total is not available in the database itself for purposes of a bulk data analysis. Older cases do not generally have access to the text of judgment orders. See *Missouri CaseNet*, OFF. OF THE [MO.] ST. CT. ADMIN., <https://www.courts.mo.gov/casenet/base/welcome.do>.

170. *About Our Papers*, MO. LAW. WKLY., <http://molawyersmedia.com/news/missouri-lawyers-weekly/> (last visited May 25, 2013).

171. See *Verdicts & Settlements*, MO. LAW. WKLY., <http://verdicts.molawyersmedia.com/> (last visited Apr. 5, 2013) (noting that at least some of the verdicts and settlements in the database are self-reported and that pre-2006 verdicts and settlements must be researched by searching the entire publication rather than the database).

172. *Id.* The author extracted all verdicts and settlements in the *Missouri Lawyers Weekly* database and compared the number included in that database to the number of cases filed in the Office of State Court Administrator records for the same period, as shown in Appendix A, Table 1. The extracted data and the calculation yielding the “less than 3 percent” statistic are maintained in the author’s files.

including outcome data, with its statewide electronic filing initiative, now operative for all Missouri appeals tribunals and St. Charles and Callaway Counties and expected to be operative in 2013 for an additional twenty-four of Missouri's 115 counties.<sup>173</sup> As the system expands to include all Missouri circuits, all future case filings, including disposition records, will be available online, even if those documents are not translated into fields in the database. To the extent that old records can be scanned and linked to the database, it will also be possible for interns working with the court system to translate these documents into the appropriate data fields without physically examining each of the more than 120,000 case files necessary to effectively analyze the monetary effectiveness of 2005 tort reform.

As noted in the description of the pilot electronic filing system, appropriations for Missouri's court system have experienced and continue to experience cuts, making allocations of resources for data enhancement difficult.<sup>174</sup> Members of the legal community and members of the legislature concerned about the impact of torts on both justice and Missouri's business environment may wish to examine ways to make greater investments in the quality of historical pre- and post-reform tort data before proceeding with efforts to further change Missouri's tort system with either additional reform or reversion.

In summary, this Note clearly demonstrates that tort reform has been effective: available data clearly show that restraints on venue-shopping and presumably damages limits have substantially reduced the number of tort actions filed in Missouri courts and that the remaining tort actions have been distributed more equitably throughout the state. It is likely that both reduction in the number of

---

173. See Honorable Richard B. Teitelman, Chief Justice, Mo. Supreme Court, 2012 State of the Judiciary Address, transcript available at <https://www.courts.mo.gov/page.jsp?id=51974> ("We also owe you many thanks for helping the courts with their efforts in the area of technology. The state court administrator's office has undertaken a remarkable cooperative effort to help make our records more accessible through electronic filing."); see also *The Missouri Electronic Filing System*, YOUR MISSOURI COURTS, <https://www.courts.mo.gov/page.jsp?id=50531> (last visited May 9, 2013); *Missouri Electronic Filing Implementation Schedule*, YOUR MISSOURI COURTS, <http://www.courts.mo.gov/page.jsp?id=46524>.

174. See *The Missouri Electronic Filing System*, *supra* note 173.

tort cases filed and filing redistribution have in fact improved Missouri's business and medical services climate.

And it is likely that the Reform Act's curtailment on medical malpractice claims, demonstrated by the 30 percent reduction in malpractice filings, has reduced malpractice premiums as proponents claim and improved the ability of our universities and medical centers to attract the best doctors and researchers.<sup>175</sup> But the impact of the recent *Watts* decision<sup>176</sup> has yet to be felt. Whether the reduction in claims has reduced the overall cost of health care is a question best left to those engaged in the national health insurance debate.

Other important questions of fairness—whether Missouri's tort reform has really penalized the most severely injured plaintiffs and dampened others' appetites to pursue legitimate personal injury claims—remain unanswered.

Although proponents of tort reform can claim victory in measurable areas, it is not yet possible to examine the cost of that victory to plaintiffs and the rewards of that victory to businesses and others who are willing or unwilling participants in the tort wars. Claims that tort reform has in fact drastically reduced settlement costs do not appear to be supported by available facts,<sup>177</sup> although such claims may very well be true.

This Note is but a snapshot of tort reform in Missouri: the Missouri legislature and Missouri courts will inevitably continue to reshape Missouri tort law. As noted in the Introduction, the Act's venue limitations have yet to be tested in Missouri courts,<sup>178</sup> and new reform proposals populated the 2013 legislative menu.<sup>179</sup> Reform-

---

175. Blunt, *How Missouri Cut Junk Lawsuits*, *supra* note 14 (“Malpractice insurers are also turning a profit for the fifth year in a row—allowing other insurers to compete for business in Missouri. This will drive down costs, which will save government programs money as well as improve the system for patients. It will also leave doctors with more resources to invest in better care.”).

176. *Watts*, 376 S.W.3d at 635–48.

177. *Tort Reform Has Been Great for Missouri*, *supra* note 14 (quoting an article in the *Southeast Missourian*, which stated as follows: “Blunt said 2007 numbers were not available, but that from 2005 to 2006, average settlement costs fell nearly 14 percent, and total claims against Missouri doctors dropped by 61 percent.”).

178. Lauck, *supra* note 96, at 5.

179. *2013 Legislative Agenda*, *supra* note 1. See also Scott Lauck, *Med mal limits measure likely to return*, MO. LAW. WKLY. (May 25, 2013), <http://molawyersmedia.com/blog/2013/05/25/med-mal-limits-measure-likely-to-return/>.

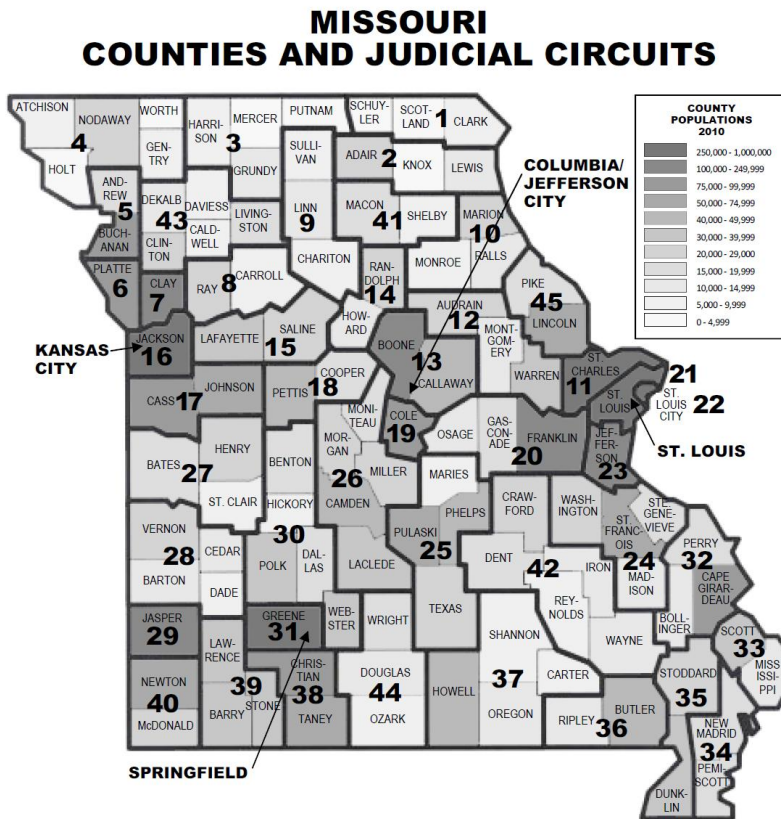
related court rulings will undoubtedly continue to clarify the effects of Missouri's tort reform efforts. Those rulings will undoubtedly attract spirited defenses and hostility and, together with the lobbying efforts of business interests and social justice organizations, breed more legislative initiatives. The composition of the Missouri Supreme Court will have great impact on where constitutional lines are ultimately drawn; the political composition of the Missouri legislature and the political party of Missouri's governor will greatly impact whether and what types of legislative initiatives fail or succeed.

Given the lack of data on the pre- and post-reform dollar volumes of awards and settlements, both proponents and opponents of tort reform should concentrate on gathering and analyzing more data before making sweeping pronouncements on the need for more reform, lamenting reform excesses in current law, definitively declaring total victory or defeat, or—at worst—making new changes to Missouri's tort laws without full knowledge of the impacts of the 2005 Act.



APPENDIX A

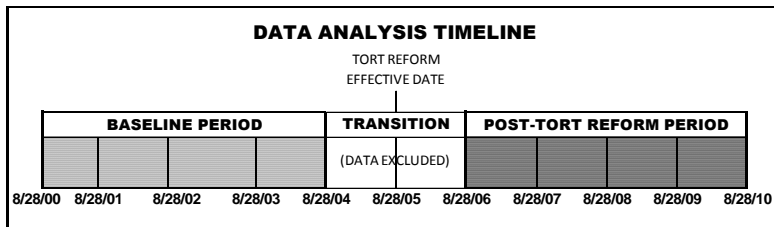
FIGURE 1. MAP OF MISSOURI COUNTIES AND JUDICIAL CIRCUITS



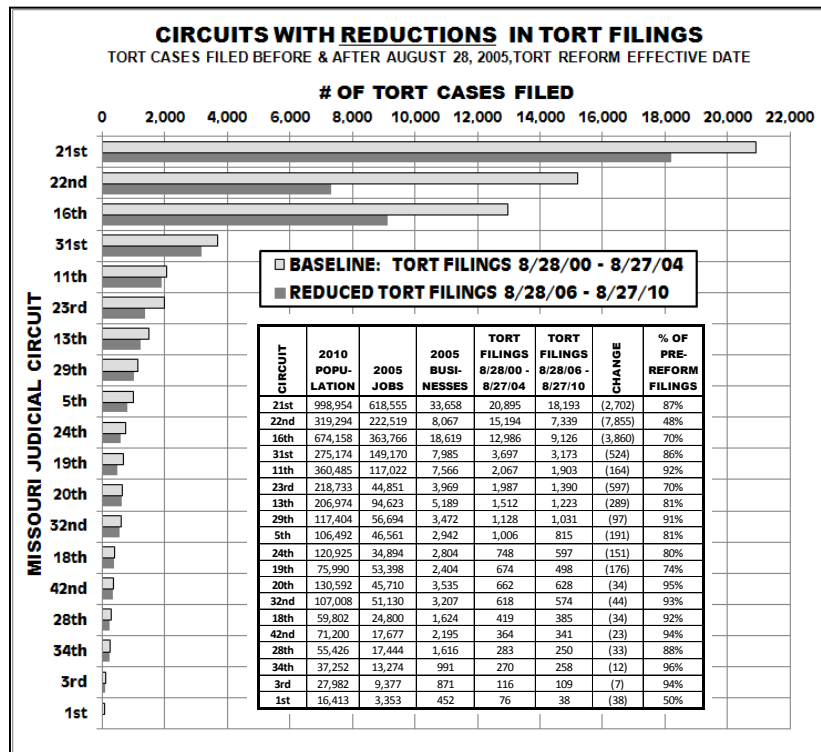
COUNTY DISTRIBUTION  
WITHIN CIRCUITS

# COUNTRIES	# CIRCUITS	TOTAL COUNTRIES
1	10	10
2	15	30
3	10	30
4	5	20
5	5	25
<b>TOTALS:</b>	<b>45</b>	<b>115</b>

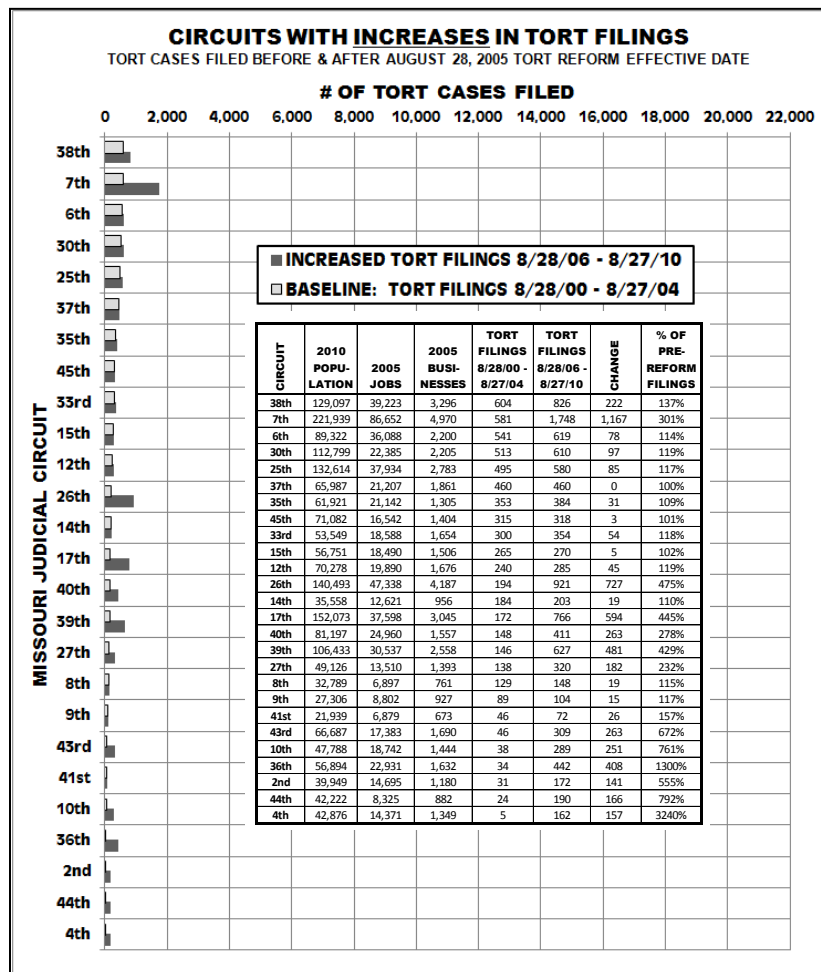
FIGURE 2. DATA ANALYSIS TIMELINE



**FIGURE 3. CIRCUIT COMPARISON—PRE- AND POST-REFORM  
DECREASES IN TORT ACTIONS**



**FIGURE 4. CIRCUIT COMPARISON—PRE- AND POST-REFORM  
INCREASES IN TORT ACTIONS**

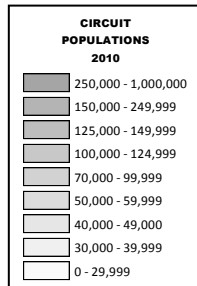


**TABLE 1. ALL TORT CASES FILED—PRE- AND POST-REFORM  
BY CIRCUIT**

**TOTAL ALL TORT CASES FILED  
(BY CIRCUIT)**

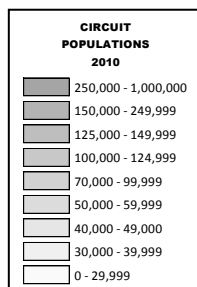
CIRCUIT	COUNTIES IN CIRCUIT	2010 POPULATION	2005 JOBS	2005 BUSINESSES	TORT CASES FILED 8/28/00 THROUGH 8/27/04	TORT CASES FILED 8/28/06 THROUGH 8/27/10	# CHANGE	POST-AS % OF PRE-REFORM	CHANGE IN CASES/ 1,000 PERSONS	CHANGE IN CASES/ 1,000 JOBS
1st	Clark, Scotland, Schuyler	16,413	3,353	452	76	38	(38)	50.0%	(2.32)	(11.33)
2nd	Adair, Lewis, Knox	39,949	14,695	1,180	31	172	141	554.8%	3.53	9.60
3rd	Grundy, Harrison, Putnam, Mercer	27,982	9,377	871	116	109	(7)	94.0%	(0.25)	(0.75)
4th	Atchison, Gentry, Holt, Nodaway, Worth	42,876	14,371	1,349	5	162	157	3240.0%	3.66	10.92
5th	Andrew, Buchanan	106,492	46,561	2,942	1,006	815	(191)	81.0%	(1.79)	(4.10)
6th	Platte	89,322	36,088	2,200	541	619	78	114.4%	0.87	2.16
7th	Clay	221,939	86,652	4,970	581	1,748	1,167	300.9%	5.26	13.47
8th	Carroll, Ray	32,789	6,897	761	129	148	19	114.7%	0.58	2.75
9th	Chariton, Lynn, Sullivan	27,306	8,802	927	89	104	15	116.9%	0.55	1.70
10th	Marion, Monroe, Ralls	47,788	18,742	1,444	38	289	251	760.5%	5.25	13.39
11th	St. Charles	360,485	117,022	7,566	2,067	1,903	(164)	92.1%	(0.45)	(1.40)
12th	Audrain, Warren, Montgomery	70,278	19,890	1,676	240	285	45	118.8%	0.64	2.26
13th	Boone, Callaway	206,974	94,623	5,189	1,512	1,223	(289)	80.9%	(1.40)	(3.05)
14th	Howard, Randolph	35,558	12,621	956	184	203	19	110.3%	0.53	1.51
15th	Lafayette, Saline	56,751	18,490	1,506	265	270	5	101.9%	0.09	0.27
16th	Jackson	674,158	363,766	18,619	12,986	9,126	(3,860)	70.3%	(5.73)	(10.61)
17th	Cass, Johnson	152,073	37,598	3,045	172	766	594	445.3%	3.91	15.80
18th	Cooper, Pettis	59,802	24,800	1,624	419	385	(34)	91.9%	(0.57)	(1.37)
19th	Cole	75,990	53,398	2,404	674	498	(176)	73.9%	(2.32)	(3.30)
20th	Franklin, Gasconade, Osage	130,592	45,710	3,535	662	628	(34)	94.9%	(0.26)	(0.74)
21st	St. Louis	998,954	618,555	33,658	20,895	18,193	(2,702)	87.1%	(2.70)	(4.37)
22nd	St. Louis City	319,294	222,519	8,067	15,194	7,339	(7,855)	48.3%	(24.60)	(35.30)
23rd	Jefferson	218,733	44,851	3,969	1,987	1,390	(597)	70.0%	(2.73)	(13.31)

(CONTINUED ON NEXT PAGE)



**TOTAL ALL TORT CASES FILED (BY CIRCUIT)**  
(CONTINUED FROM PREVIOUS PAGE)

CIRCUIT	COUNTIES IN CIRCUIT	2010 POPULATION	2005 JOBS	2005 BUSINESSES	TORT CASES FILED 8/28/00 THROUGH 8/27/04	TORT CASES FILED 8/28/06 THROUGH 8/27/10	CHANGE #	POST-AS % OF PRE-REFORM	CHANGE IN CASES/ 1,000 PERSONS	CHANGE IN CASES/ 1,000 JOBS
24th	St. Francois, Ste. Genevieve, Madison, Washington	120,925	34,894	2,804	748	597	(151)	79.8%	(1.25)	(4.33)
25th	Maries, Phelps, Pulaski, Texas	132,614	37,934	2,783	495	580	85	117.2%	0.64	2.24
26th	Camden, Laclede, Miller, Moniteau, Morgan	140,493	47,338	4,187	194	921	727	474.7%	5.17	15.36
27th	Bates, Henry, St. Clair	49,126	13,510	1,393	138	320	182	231.9%	3.70	13.47
28th	Barton, Cedar, Dade, Vernon	55,426	17,444	1,616	283	250	(33)	88.3%	(0.60)	(1.89)
29th	Jasper	117,404	56,694	3,472	1,128	1,031	(97)	91.4%	(0.83)	(1.71)
30th	Benton, Dallas, Hickory, Polk, Webster	112,799	22,385	2,205	513	610	97	118.9%	0.86	4.33
31st	Greene	275,174	149,170	7,985	3,697	3,173	(524)	85.8%	(1.90)	(3.51)
32nd	Bollinger, Cape Girardeau, Perry	107,008	51,130	3,207	618	574	(44)	92.9%	(0.41)	(0.86)
33rd	Mississippi, Scott	53,549	18,588	1,654	300	354	54	118.0%	1.01	2.91
34th	New Madrid, Pemiscot	37,252	13,274	991	270	258	(12)	95.6%	(0.32)	(0.90)
35th	Dunklin, Stoddard	61,921	21,142	1,305	353	384	31	108.8%	0.50	1.47
36th	Butler, Ripley	56,894	22,931	1,632	34	442	408	1300.0%	7.17	17.79
37th	Carter, Howell, Oregon, Shannon	65,987	21,207	1,861	460	460	0	100.0%	0.00	0.00
38th	Christian, Taney	129,097	39,223	3,296	604	826	222	136.8%	1.72	5.66
39th	Barry, Lawrence, Stone	106,433	30,537	2,558	146	627	481	429.5%	4.52	15.75
40th	McDonald, Newton	81,197	24,960	1,557	148	411	263	277.7%	3.24	10.54
41st	Macon, Shelby	21,939	6,879	673	46	72	26	156.5%	1.19	3.78
42nd	Crawford, Dent, Iron, Reynolds, Wayne	71,200	17,677	2,195	364	341	(23)	93.7%	(0.32)	(1.30)
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	66,687	17,383	1,690	46	309	263	671.7%	3.94	15.13
44th	Douglas, Ozark, Wright	42,222	8,325	882	24	190	166	791.7%	3.93	19.94
45th	Lincoln, Pike	71,082	16,542	1,404	315	318	3	101.0%	0.04	0.18
<b>TOTALS:</b>		<b>5,988,927</b>	<b>2,608,548</b>	<b>160,260</b>	<b>70,793</b>	<b>59,461</b>	<b>(11,332)</b>	<b>84%</b>	<b>(1.89)</b>	<b>(4.34)</b>



**TABLE 2. TOP FIVE CIRCUITS: TORT CASES FILED—PRE- AND POST-REFORM COMPARED WITH OTHER CIRCUIT CHARACTERISTICS**

**TORT CASES PRE- AND POST-REFORM  
WITH OTHER CIRCUIT CHARACTERISTICS  
TOP FIVE (5) CIRCUITS**

**POPULATIONS**

CIRCUIT	COUNTIES IN CIRCUIT	POPULATION		CASES: PRE-REFORM			CASES: POST-REFORM			CHANGE IN DISCREPANCY
		2010 POPULATION	% OF MO.	8/28/00 THROUGH 8/27/04	% OF TOTAL TORTS	DISCREPANCY-% POPULATION VS. % TORTS	8/28/06 THROUGH 8/27/10	% OF TOTAL TORTS	DISCREPANCY-% POPULATION VS. % TORTS	
21st	St. Louis	998,954	16.7%	20,895	29.5%	12.8%	18,193	30.6%	13.9%	1.1%
16th	Jackson	674,158	11.3%	12,986	18.3%	7.1%	9,126	15.3%	4.1%	-3.0%
11th	St. Charles	360,485	6.0%	2,067	2.9%	-3.1%	1,903	3.2%	-2.8%	0.3%
22nd	St. Louis City	319,294	5.3%	15,194	21.5%	16.1%	7,339	12.3%	7.0%	-9.1%
31st	Greene	275,174	4.6%	3,697	5.2%	0.6%	3,173	5.3%	0.7%	0.1%
<b>TOTAL MISSOURI:</b>		<b>5,988,927</b>		<b>70,793</b>			<b>59,461</b>			

**JOBS**

CIRCUIT	COUNTIES IN CIRCUIT	JOBS		CASES: PRE-REFORM			CASES: POST-REFORM			CHANGE IN DISCREPANCY
		2005 JOBS	% OF MO.	8/28/00 THROUGH 8/27/04	% OF TOTAL TORTS	DISCREPANCY-% POPULATION VS. % TORTS	8/28/06 THROUGH 8/27/10	% OF TOTAL TORTS	DISCREPANCY-% POPULATION VS. % TORTS	
21st	St. Louis	618,555	10.3%	20,895	29.5%	19.2%	18,193	30.6%	20.3%	1.1%
16th	Jackson	363,766	6.1%	12,986	18.3%	12.3%	9,126	15.3%	9.3%	-3.0%
22nd	St. Louis City	222,519	3.7%	15,194	21.5%	17.7%	7,339	12.3%	8.6%	-9.1%
31st	Greene	149,170	2.5%	3,697	5.2%	2.7%	3,173	5.3%	2.8%	0.1%
11th	St. Charles	117,022	2.0%	2,067	2.9%	1.0%	1,903	3.2%	1.2%	0.3%
<b>TOTAL MISSOURI:</b>		<b>2,608,548</b>		<b>70,793</b>			<b>59,461</b>			

**BUSINESSES**

CIRCUIT	COUNTIES IN CIRCUIT	BUSINESSES		CASES: PRE-REFORM			CASES: POST-REFORM			CHANGE IN DISCREPANCY
		2005 BUSI- NESSES	% OF MO.	8/28/00 THROUGH 8/27/04	% OF TOTAL TORTS	DISCREPANCY-% POPULATION VS. % TORTS	8/28/06 THROUGH 8/27/10	% OF TOTAL TORTS	DISCREPANCY-% POPULATION VS. % TORTS	
21st	St. Louis	33,658	0.6%	20,895	29.5%	29.0%	18,193	30.6%	30.0%	1.1%
16th	Jackson	18,619	0.3%	12,986	18.3%	18.0%	9,126	15.3%	15.0%	-3.0%
22nd	St. Louis City	8,067	0.1%	15,194	21.5%	21.3%	7,339	12.3%	12.2%	-9.1%
31st	Greene	7,985	0.1%	3,697	5.2%	5.1%	3,173	5.3%	5.2%	0.1%
11th	St. Charles	7,566	0.1%	2,067	2.9%	2.8%	1,903	3.2%	3.1%	0.3%
<b>TOTAL MISSOURI:</b>		<b>160,260</b>		<b>70,793</b>			<b>59,461</b>			

**TABLE 3. TOP FIVE CIRCUITS: TORT CASES FILED—PRE- AND POST-REFORM COMPARED WITH OTHER CIRCUIT CHARACTERISTICS (CUMULATIVE)**

**TORT CASES PRE- AND POST-REFORM WITH OTHER CIRCUIT CHARACTERISTICS TOP FIVE (5) CIRCUITS (CUMULATIVE)**

**POPULATIONS**

CIRCUIT	COUNTIES IN CIRCUIT	POPULATION			CASES: PRE-REFORM				DISCREPANCY—% POPULATION VS. % TORTS	CASES: POST-REFORM				CHANGE IN DISCREPANCY
		2010 POPULATION	CUMULATIVE	% OF MO.	8/28/00 THROUGH 8/27/04	CUMULATIVE	% OF TOTAL TORTS	8/28/06 THROUGH 8/27/10		CUMULATIVE	% OF TOTAL TORTS	DISCREPANCY—% POPULATION VS. % TORTS		
21st	St. Louis	998,954	998,954	16.7%	20,895	20,895	29.5%	12.8%	18,193	18,193	30.6%	13.9%	1.1%	
16th	Jackson	674,158	1,673,112	27.9%	12,986	33,881	47.9%	19.9%	9,126	27,319	45.9%	18.0%	-1.9%	
11th	St. Charles	360,485	2,033,597	34.0%	2,067	35,948	50.8%	16.8%	1,903	29,222	49.1%	15.2%	-1.6%	
22nd	St. Louis City	319,294	2,352,891	39.3%	15,194	51,142	72.2%	33.0%	7,339	36,561	61.5%	22.2%	-10.8%	
31st	Greene	275,174	2,628,065	43.9%	3,697	54,839	77.5%	33.6%	3,173	39,734	66.8%	22.9%	-10.6%	
<b>TOTAL MISSOURI:</b>		<b>5,988,927</b>			<b>70,793</b>				<b>59,461</b>					

**JOBS**

CIRCUIT	COUNTIES IN CIRCUIT	JOBS			CASES—PRE-REFORM				DISCREPANCY—% POPULATION VS. % TORTS	CASES—POST-REFORM				CHANGE IN DISCREPANCY
		2005 JOBS	CUMULATIVE	% OF MO.	8/28/00 THROUGH 8/27/04	CUMULATIVE	% OF TOTAL TORTS	8/28/06 THROUGH 8/27/10		CUMULATIVE	% OF TOTAL TORTS	DISCREPANCY—% POPULATION VS. % TORTS		
21st	St. Louis	618,555	618,555	23.7%	20,895	20,895	29.5%	5.8%	18,193	18,193	30.6%	6.9%	1.1%	
16th	Jackson	363,766	982,321	37.7%	12,986	33,881	47.9%	10.2%	9,126	27,319	45.9%	8.3%	-1.9%	
22nd	St. Louis City	222,519	1,204,840	46.2%	15,194	49,075	69.3%	23.1%	7,339	34,658	58.3%	12.1%	-11.0%	
31st	Greene	149,170	1,354,010	51.9%	3,697	52,772	74.5%	22.6%	3,173	37,831	63.6%	11.7%	-10.9%	
11th	St. Charles	117,022	1,471,032	56.4%	2,067	54,839	77.5%	21.1%	1,903	39,734	66.8%	10.4%	-10.6%	
<b>TOTAL MISSOURI:</b>		<b>2,608,548</b>			<b>70,793</b>				<b>59,461</b>					

**BUSINESSES**

CIRCUIT	COUNTIES IN CIRCUIT	BUSINESSES			CASES—PRE-REFORM				DISCREPANCY—% POPULATION VS. % TORTS	CASES—POST-REFORM				CHANGE IN DISCREPANCY
		2005 BUSINESSES	CUMULATIVE	% OF MO.	8/28/00 THROUGH 8/27/04	CUMULATIVE	% OF TOTAL TORTS	8/28/06 THROUGH 8/27/10		CUMULATIVE	% OF TOTAL TORTS	DISCREPANCY—% POPULATION VS. % TORTS		
21st	St. Louis	33,658	33,658	21.0%	20,895	20,895	29.5%	8.5%	18,193	18,193	30.6%	9.6%	1.1%	
16th	Jackson	18,619	52,277	32.6%	12,986	33,881	47.9%	15.2%	9,126	27,319	45.9%	13.3%	-1.9%	
22nd	St. Louis City	8,067	60,344	37.7%	15,194	49,075	69.3%	31.7%	7,339	34,658	58.3%	20.6%	-11.0%	
31st	Greene	7,985	68,329	42.6%	3,697	52,772	74.5%	31.9%	3,173	37,831	63.6%	21.0%	-10.9%	
11th	St. Charles	7,566	75,895	47.4%	2,067	54,839	77.5%	30.1%	1,903	39,734	66.8%	19.5%	-10.6%	
<b>TOTAL MISSOURI:</b>		<b>160,260</b>			<b>70,793</b>				<b>59,461</b>					



**TABLE 4. MEDICAL MALPRACTICE  
PERSONAL INJURY--MALPRACTICE  
(BY LARGEST # OF CASES--2000 - 2004)**

CIRCUIT	COUNTIES IN CIRCUIT	8/28/00 THROUGH 8/27/04	8/28/06 THROUGH 8/27/10	CHANGE	
				#	POST- REFORM % OF BASELINE
22nd	St. Louis City	865	304	(561)	35.1%
21st	St. Louis	785	553	(232)	70.4%
16th	Jackson	663	379	(284)	57.2%
31st	Greene	153	199	46	130.1%
29th	Jasper	107	72	(35)	67.3%
13th	Boone, Callaway	90	87	(3)	96.7%
5th	Andrew, Buchanan	64	16	(48)	25.0%
19th	Cole	62	41	(21)	66.1%
32nd	Bollinger, Cape Girardeau, Perry	58	51	(7)	87.9%
11th	St. Charles	47	53	6	112.8%
24th	St. Francois, Ste. Genevieve, Madison, Washington	46	26	(20)	56.5%
7th	Clay	42	104	62	247.6%
23rd	Jefferson	37	27	(10)	73.0%
25th	Maries, Phelps, Pulaski, Texas	34	25	(9)	73.5%
33rd	Mississippi, Scott	31	29	(2)	93.5%
20th	Franklin, Gasconade, Osage	26	15	(11)	57.7%
37th	Carter, Howell, Oregon, Shannon	17	12	(5)	70.6%
17th	Cass, Johnson	16	18	2	112.5%
14th	Howard, Randolph	15	3	(12)	20.0%
35th	Dunklin, Stoddard	14	24	10	171.4%
18th	Cooper, Pettis	14	14	0	100.0%
30th	Benton, Dallas, Hickory, Polk, Webster	13	11	(2)	84.6%
6th	Platte	12	14	2	116.7%
26th	Camden, Laclède, Miller, Moniteau, Morgan	10	30	20	300.0%
42nd	Crawford, Dent, Iron, Reynolds, Wayne	10	6	(4)	60.0%
28th	Barton, Cedar, Dade, Vernon	10	6	(4)	60.0%
34th	New Madrid, Pemiscot	10	4	(6)	40.0%
15th	Lafayette, Saline	9	9	0	100.0%
38th	Christian, Taney	8	20	12	250.0%
40th	McDonald, Newton	7	13	6	185.7%
36th	Butler, Ripley	7	54	47	771.4%
1st	Clark, Scotland, Schuyler	7	2	(5)	28.6%
45th	Lincoln, Pike	5	3	(2)	60.0%
10th	Marion, Monroe, Ralls	5	14	9	280.0%
27th	Bates, Henry, St. Clair	4	10	6	250.0%
3rd	Grundy, Harrison, Putnam, Mercer	4	5	1	125.0%
12th	Audrain, Warren, Montgomery	3	9	6	300.0%
41st	Macon, Shelby	3	3	0	100.0%
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	2	11	9	550.0%
2nd	Adair, Lewis, Knox	2	18	16	900.0%
8th	Carroll, Ray	2	2	0	100.0%
39th	Barry, Lawrence, Stone	1	10	9	1000.0%
9th	Chariton, Lynn, Sullivan	1	8	7	800.0%
4th	Atchison, Gentry, Holt, Nodaway, Worth	0	10	10	1000%+
44th	Douglas, Ozark, Wright	0	0	0	N/A
<b>TOTALS:</b>		<b>3,321</b>	<b>2,324</b>	<b>(997)</b>	<b>70%</b>

**TABLE 5. WRONGFUL DEATH**  
**WRONGFUL DEATH**  
**(BY LARGEST # OF CASES--2000 - 2004)**

CIRCUIT	COUNTIES IN CIRCUIT	8/28/00 THROUGH 8/27/04	8/28/06 THROUGH 8/27/10	CHANGE	
				#	POST- REFORM % OF BASELINE
16th	Jackson	1,066	405	(661)	38.0%
22nd	St. Louis City	641	335	(306)	52.3%
21st	St. Louis	375	329	(46)	87.7%
31st	Greene	298	134	(164)	45.0%
13th	Boone, Callaway	89	78	(11)	87.6%
29th	Jasper	74	74	0	100.0%
23rd	Jefferson	67	76	9	113.4%
7th	Clay	64	73	9	114.1%
11th	St. Charles	57	65	8	114.0%
24th	St. Francois, Ste. Genevieve, Madison, Washington	55	56	1	101.8%
5th	Andrew, Buchanan	54	33	(21)	61.1%
25th	Maries, Phelps, Pulaski, Texas	52	58	6	111.5%
20th	Franklin, Gasconade, Osage	52	51	(1)	98.1%
19th	Cole	46	46	0	100.0%
33rd	Mississippi, Scott	42	26	(16)	61.9%
30th	Benton, Dallas, Hickory, Polk, Webster	41	34	(7)	82.9%
32nd	Bollinger, Cape Girardeau, Perry	41	31	(10)	75.6%
37th	Carter, Howell, Oregon, Shannon	38	47	9	123.7%
6th	Platte	36	35	(1)	97.2%
42nd	Crawford, Dent, Iron, Reynolds, Wayne	35	41	6	117.1%
35th	Dunklin, Stoddard	35	33	(2)	94.3%
34th	New Madrid, Pemiscot	34	31	(3)	91.2%
18th	Cooper, Pettis	33	34	1	103.0%
28th	Barton, Cedar, Dade, Vernon	33	21	(12)	63.6%
38th	Christian, Taney	25	31	6	124.0%
12th	Audrain, Warren, Montgomery	25	31	6	124.0%
45th	Lincoln, Pike	20	31	11	155.0%
17th	Cass, Johnson	16	45	29	281.3%
8th	Carroll, Ray	16	19	3	118.8%
3rd	Grundy, Harrison, Putnam, Mercer	16	5	(11)	31.3%
26th	Camden, Laclède, Miller, Moniteau, Morgan	13	80	67	615.4%
14th	Howard, Randolph	13	14	1	107.7%
27th	Bates, Henry, St. Clair	12	32	20	266.7%
15th	Lafayette, Saline	9	32	23	355.6%
40th	McDonald, Newton	8	57	49	712.5%
39th	Barry, Lawrence, Stone	7	38	31	542.9%
9th	Chariton, Lynn, Sullivan	7	11	4	157.1%
1st	Clark, Scotland, Schuyler	7	6	(1)	85.7%
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	4	41	37	1025.0%
10th	Marion, Monroe, Ralls	3	22	19	733.3%
41st	Macon, Shelby	3	10	7	333.3%
2nd	Adair, Lewis, Knox	2	17	15	850.0%
36th	Butler, Ripley	1	39	38	3900.0%
44th	Douglas, Ozark, Wright	1	19	18	1900.0%
4th	Atchison, Gentry, Holt, Nodaway, Worth	0	16	16	1000%+
<b>TOTALS:</b>		<b>3,566</b>	<b>2,742</b>	<b>(824)</b>	<b>77%</b>

**TABLE 6. OTHER PERSONAL INJURY**  
**OTHER PERSONAL INJURY**  
**(BY LARGEST # OF CASES--2000 - 2004)**

CIRCUIT	COUNTIES IN CIRCUIT	8/28/00 THROUGH 8/27/04	8/28/06 THROUGH 8/27/10	CHANGE	
				#	POST- REFORM % OF BASELINE
22nd	St. Louis City	8,474	4,312	(4,162)	50.9%
16th	Jackson	5,726	3,616	(2,110)	63.2%
21st	St. Louis	4,713	5,358	645	113.7%
31st	Greene	3,178	2,283	(895)	71.8%
11th	St. Charles	1,043	1,132	89	108.5%
23rd	Jefferson	1,030	868	(162)	84.3%
13th	Boone, Callaway	848	747	(101)	88.1%
29th	Jasper	565	686	121	121.4%
5th	Andrew, Buchanan	528	575	47	108.9%
24th	St. Francois, Ste. Genevieve, Madison, Washington	442	308	(134)	69.7%
38th	Christian, Taney	430	600	170	139.5%
7th	Clay	409	820	411	200.5%
20th	Franklin, Gasconade, Osage	393	387	(6)	98.5%
25th	Maries, Phelps, Pulaski, Texas	360	354	(6)	98.3%
37th	Carter, Howell, Oregon, Shannon	328	329	1	100.3%
32nd	Bollinger, Cape Girardeau, Perry	325	329	4	101.2%
30th	Benton, Dallas, Hickory, Polk, Webster	321	429	108	133.6%
19th	Cole	303	261	(42)	86.1%
18th	Cooper, Pettis	263	193	(70)	73.4%
35th	Dunklin, Stoddard	219	248	29	113.2%
6th	Platte	205	316	111	154.1%
42nd	Crawford, Dent, Iron, Reynolds, Wayne	203	195	(8)	96.1%
33rd	Mississippi, Scott	173	204	31	117.9%
34th	New Madrid, Pemiscot	170	168	(2)	98.8%
45th	Lincoln, Pike	157	164	7	104.5%
12th	Audrain, Warren, Montgomery	138	162	24	117.4%
15th	Lafayette, Saline	136	146	10	107.4%
14th	Howard, Randolph	115	121	6	105.2%
26th	Camden, Laclede, Miller, Moniteau, Morgan	109	537	428	492.7%
17th	Cass, Johnson	100	409	309	409.0%
39th	Barry, Lawrence, Stone	98	416	318	424.5%
28th	Barton, Cedar, Dade, Vernon	90	156	66	173.3%
27th	Bates, Henry, St. Clair	78	180	102	230.8%
40th	McDonald, Newton	64	258	194	403.1%
8th	Carroll, Ray	61	85	24	139.3%
9th	Chariton, Lynn, Sullivan	59	45	(14)	76.3%
3rd	Grundy, Harrison, Putnam, Mercer	52	58	6	111.5%
1st	Clark, Scotland, Schuyler	35	15	(20)	42.9%
41st	Macon, Shelby	29	44	15	151.7%
2nd	Adair, Lewis, Knox	24	104	80	433.3%
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	23	155	132	673.9%
10th	Marion, Monroe, Ralls	20	178	158	890.0%
44th	Douglas, Ozark, Wright	18	120	102	666.7%
36th	Butler, Ripley	16	261	245	1631.3%
4th	Atchison, Gentry, Holt, Nodaway, Worth	3	77	74	2566.7%
<b>TOTALS:</b>		<b>32,074</b>	<b>28,409</b>	<b>(3,665)</b>	<b>89%</b>

**TABLE 7. PROPERTY DAMAGE**  
**PROPERTY DAMAGE**  
**(BY LARGEST # OF CASES--2000 - 2004)**

CIRCUIT	COUNTIES IN CIRCUIT	8/28/00 THROUGH 8/27/04	8/28/06 THROUGH 8/27/10	CHANGE	
				#	POST- REFORM % OF BASELINE
16th	Jackson	3,515	2,027	(1,488)	57.7%
22nd	St. Louis City	2,609	1,246	(1,363)	47.8%
11th	St. Charles	781	395	(386)	50.6%
13th	Boone, Callaway	423	165	(258)	39.0%
21st	St. Louis	299	1,766	1,467	590.6%
19th	Cole	244	85	(159)	34.8%
29th	Jasper	208	100	(108)	48.1%
6th	Platte	158	108	(50)	68.4%
20th	Franklin, Gasconade, Osage	144	106	(38)	73.6%
32nd	Bollinger, Cape Girardeau, Perry	132	91	(41)	68.9%
24th	St. Francois, Ste. Genevieve, Madison, Washington	128	122	(6)	95.3%
15th	Lafayette, Saline	77	43	(34)	55.8%
18th	Cooper, Pettis	75	79	4	105.3%
42nd	Crawford, Dent, Iron, Reynolds, Wayne	73	55	(18)	75.3%
30th	Benton, Dallas, Hickory, Polk, Webster	70	70	0	100.0%
37th	Carter, Howell, Oregon, Shannon	69	38	(31)	55.1%
45th	Lincoln, Pike	66	64	(2)	97.0%
38th	Christian, Taney	59	105	46	178.0%
28th	Barton, Cedar, Dade, Vernon	58	36	(22)	62.1%
5th	Andrew, Buchanan	57	167	110	293.0%
35th	Dunklin, Stoddard	51	49	(2)	96.1%
7th	Clay	49	351	302	716.3%
23rd	Jefferson	46	295	249	641.3%
33rd	Mississippi, Scott	37	56	19	151.4%
3rd	Grundy, Harrison, Putnam, Mercer	36	26	(10)	72.2%
12th	Audrain, Warren, Montgomery	34	41	7	120.6%
34th	New Madrid, Pemiscot	32	34	2	106.3%
40th	McDonald, Newton	31	50	19	161.3%
26th	Camden, Laclede, Miller, Moniteau, Morgan	27	127	100	470.4%
14th	Howard, Randolph	26	23	(3)	88.5%
25th	Maries, Phelps, Pulaski, Texas	22	70	48	318.2%
8th	Carroll, Ray	20	25	5	125.0%
17th	Cass, Johnson	19	178	159	936.8%
1st	Clark, Scotland, Schuyler	19	12	(7)	63.2%
27th	Bates, Henry, St. Clair	18	49	31	272.2%
31st	Greene	12	294	282	2450.0%
39th	Barry, Lawrence, Stone	11	89	78	809.1%
9th	Chariton, Lynn, Sullivan	10	21	11	210.0%
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	7	47	40	671.4%
41st	Macon, Shelby	6	7	1	116.7%
10th	Marion, Monroe, Ralls	3	38	35	1266.7%
2nd	Adair, Lewis, Knox	3	19	16	633.3%
36th	Butler, Ripley	2	48	46	2400.0%
44th	Douglas, Ozark, Wright	2	27	25	1350.0%
4th	Atchison, Gentry, Holt, Nodaway, Worth	0	41	41	1000%+
<b>TOTALS:</b>		<b>9,768</b>	<b>8,885</b>	<b>(883)</b>	<b>91%</b>

**TABLE 8. OTHER TORT**  
**OTHER TORT**  
**(BY LARGEST # OF CASES--2000 - 2004)**

CIRCUIT	COUNTIES IN CIRCUIT	8/28/00 THROUGH 8/27/04	8/28/06 THROUGH 8/27/10	CHANGE	
				#	POST- REFORM % OF BASELINE
21st	St. Louis	14,723	4,600	(10,123)	31.2%
16th	Jackson	1,666	1,930	264	115.8%
22nd	St. Louis City	811	533	(278)	65.7%
23rd	Jefferson	807	93	(714)	11.5%
5th	Andrew, Buchanan	302	11	(291)	3.6%
29th	Jasper	173	76	(97)	43.9%
11th	St. Charles	138	221	83	160.1%
6th	Platte	130	89	(41)	68.5%
28th	Barton, Cedar, Dade, Vernon	92	23	(69)	25.0%
38th	Christian, Taney	82	56	(26)	68.3%
24th	St. Francois, Ste. Genevieve, Madison, Washington	77	77	0	100.0%
30th	Benton, Dallas, Hickory, Polk, Webster	67	55	(12)	82.1%
45th	Lincoln, Pike	67	53	(14)	79.1%
32nd	Bollinger, Cape Girardeau, Perry	62	64	2	103.2%
13th	Boone, Callaway	61	99	38	162.3%
31st	Greene	56	188	132	335.7%
20th	Franklin, Gasconade, Osage	47	59	12	125.5%
42nd	Crawford, Dent, Iron, Reynolds, Wayne	42	29	(13)	69.0%
12th	Audrain, Warren, Montgomery	40	38	(2)	95.0%
40th	McDonald, Newton	36	25	(11)	69.4%
26th	Camden, Laclede, Miller, Monteau, Morgan	35	134	99	382.9%
18th	Cooper, Pettis	34	35	1	102.9%
15th	Lafayette, Saline	34	29	(5)	85.3%
35th	Dunklin, Stoddard	33	28	(5)	84.8%
8th	Carroll, Ray	30	12	(18)	40.0%
39th	Barry, Lawrence, Stone	29	61	32	210.3%
25th	Maries, Phelps, Pulaski, Texas	27	54	27	200.0%
27th	Bates, Henry, St. Clair	25	36	11	144.0%
34th	New Madrid, Pemiscot	24	12	(12)	50.0%
17th	Cass, Johnson	21	75	54	357.1%
19th	Cole	19	47	28	247.4%
7th	Clay	17	287	270	1688.2%
33rd	Mississippi, Scott	17	24	7	141.2%
14th	Howard, Randolph	15	26	11	173.3%
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	10	44	34	440.0%
9th	Chariton, Lynn, Sullivan	10	12	2	120.0%
37th	Carter, Howell, Oregon, Shannon	8	23	15	287.5%
36th	Butler, Ripley	8	29	21	362.5%
3rd	Grundy, Harrison, Putnam, Mercer	8	11	3	137.5%
1st	Clark, Scotland, Schuyler	8	3	(5)	37.5%
10th	Marion, Monroe, Ralls	7	29	22	414.3%
41st	Macon, Shelby	5	8	3	160.0%
44th	Douglas, Ozark, Wright	3	21	18	700.0%
4th	Atchison, Gentry, Holt, Nodaway, Worth	2	14	12	700.0%
2nd	Adair, Lewis, Knox	0	12	12	1000%+
<b>TOTALS:</b>		<b>19,908</b>	<b>9,385</b>	<b>(10,523)</b>	<b>47%</b>

**TABLE 9. DISCRIMINATION**  
**DISCRIMINATION:**  
**EMPLOYMENT/ACCOMMODATIONS**

CIRCUIT	COUNTIES IN CIRCUIT	8/28/00 THROUGH 8/27/04	8/28/06 THROUGH 8/27/10	CHANGE	
				#	POST- REFORM % OF BASELINE
22nd	St. Louis City	1,509	261	(1,248)	17.3%
16th	Jackson	205	706	501	344.4%
40th	McDonald, Newton	2	8	6	400.0%
9th	Chariton, Lynn, Sullivan	2	5	3	250.0%
13th	Boone, Callaway	1	47	46	4700.0%
29th	Jasper	1	20	19	2000.0%
30th	Benton, Dallas, Hickory, Polk, Webster	1	7	6	700.0%
5th	Andrew, Buchanan	1	11	10	1100.0%
42nd	Crawford, Dent, Iron, Reynolds, Wayne	1	14	13	1400.0%
35th	Dunklin, Stoddard	1	2	1	200.0%
21st	St. Louis	0	364	364	1000%+
11th	St. Charles	0	37	37	1000%+
31st	Greene	0	75	75	1000%+
7th	Clay	0	110	110	1000%+
23rd	Jefferson	0	31	31	1000%+
17th	Cass, Johnson	0	38	38	1000%+
26th	Camden, Laclède, Miller, Moniteau, Morgan	0	11	11	1000%+
25th	Maries, Phelps, Pulaski, Texas	0	18	18	1000%+
20th	Franklin, Gasconade, Osage	0	7	7	1000%+
38th	Christian, Taney	0	10	10	1000%+
24th	St. Francois, Ste. Genevieve, Madison, Washington	0	6	6	1000%+
32nd	Bollinger, Cape Girardeau, Perry	0	8	8	1000%+
39th	Barry, Lawrence, Stone	0	12	12	1000%+
6th	Platte	0	57	57	1000%+
19th	Cole	0	18	18	1000%+
45th	Lincoln, Pike	0	3	3	1000%+
12th	Audrain, Warren, Montgomery	0	4	4	1000%+
43rd	Caldwell, Clinton, Daviess, DeKalb, Livingston	0	11	11	1000%+
37th	Carter, Howell, Oregon, Shannon	0	10	10	1000%+
18th	Cooper, Pettis	0	29	29	1000%+
36th	Butler, Ripley	0	8	8	1000%+
15th	Lafayette, Saline	0	11	11	1000%+
28th	Barton, Cedar, Dade, Vernon	0	8	8	1000%+
33rd	Mississippi, Scott	0	13	13	1000%+
27th	Bates, Henry, St. Clair	0	13	13	1000%+
10th	Marion, Monroe, Ralls	0	6	6	1000%+
4th	Atchison, Gentry, Holt, Nodaway, Worth	0	1	1	1000%+
44th	Douglas, Ozark, Wright	0	3	3	1000%+
2nd	Adair, Lewis, Knox	0	0	0	N/A
34th	New Madrid, Pemiscot	0	7	7	1000%+
14th	Howard, Randolph	0	4	4	1000%+
8th	Carroll, Ray	0	4	4	1000%+
3rd	Grundy, Harrison, Putnam, Mercer	0	4	4	1000%+
41st	Macon, Shelby	0	0	0	N/A
1st	Clark, Scotland, Schuyler	0	0	0	N/A
<b>TOTALS:</b>		<b>1,724</b>	<b>2,022</b>	<b>298</b>	<b>117%</b>

APPENDIX B

