

FIRST REGULAR SESSION

HOUSE BILL NO. 461

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KOLKMEYER.

1169H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend supreme court rules 52.05 and 52.06, for the purpose of severing parties who are misjoined in a civil action.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Missouri supreme court rules 52.05 and 52.06 is amended to read as follows:
RULE 52.05 WHO MAY JOIN AS PLAINTIFF AND DEFENDANT - PROTECTIVE

2 ORDERS, WHEN

3 (a) Permissive Joinder. All persons may join in one action as plaintiffs if they assert any
4 right to relief jointly, severally, or in the alternative in respect of or arising out of the same
5 transaction, occurrence or series of transactions or occurrences and if any question of law or fact
6 common to all of them will arise in the action. All persons may be joined in one action as
7 defendants if there is asserted against them jointly, severally, or in the alternative, any right to
8 relief in respect of or arising out of the same transaction, occurrences or series of transactions
9 or occurrences and if any question of law or fact common to all of them will arise in the action.
10 A plaintiff or defendant need not be interested in obtaining or defending against all the relief
11 demanded. Judgment may be given for one or more of the plaintiffs according to their respective
12 rights to relief, and against one or more defendants according to their respective liabilities.

13 (b) Separate Trials - Protective Orders. The court may make such orders as will prevent
14 a party from being embarrassed, delayed, or put to expense by the inclusion of a person as a party
15 against whom the party asserts no claim and the person asserts no claim against the party and
16 may order separate trials or make other orders to prevent delay or prejudice.

17 (c) **Independent Establishment of Venue.** In addition to the requirements of
18 **subdivision (a), in any civil action in which there is a count alleging a tort, two or more**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 **plaintiffs may be joined in a single action only if each plaintiff could have separately filed**
20 **an action in that venue, independent of the claims of any other plaintiff. Any plaintiff that**
21 **cannot establish proper venue independent of the claims of any other plaintiff shall be**
22 **deemed misjoined. If the plaintiff was first injured outside of the state of Missouri, two or**
23 **more defendants may be joined in a single action if the plaintiff can establish proper venue**
24 **against each defendant individually. If proper venue cannot be established against a**
25 **defendant individually, that defendant shall be deemed misjoined.**

RULE 52.06 MISJOINDER AND NONJOINDER OF PARTIES

2 Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or
3 added by order of the court on motion of any party or of its own initiative at any stage of the
4 action and on such terms as are just. Any claim against a party may be severed and proceeded
5 with separately. **If a plaintiff or defendant is deemed misjoined under supreme court rule**
6 **52.05(c), such plaintiff or defendant shall be severed from the action, and the claims shall**
7 **be transferred to a county in which venue exists. If there is no county in Missouri in which**
8 **venue exists, the claims shall be dismissed.**

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