

# **Missouri vs. Kansas: How State Lines Affect Your Personal Injury Case**

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With the Pottenger Law Firm located just on the Missouri side of the Missouri-Kansas border, we regularly service clients with lawsuits in both states. Depending on the circumstances, there may be no choice whether to file a lawsuit in Missouri or Kansas, but—given the states’ varying laws—when that choice does exist, it can make a very big difference in the outcome.

Here’s how state lines can affect your personal injury case.

## Comparative Fault

When an accident happens, one of the first questions people usually ask is, “Who’s at fault?” When the answer to that question isn’t clear, the concept of comparative negligence provides a way to allocate fault between parties. This is usually a defendant’s main approach for defending against a personal injury negligence claim. Comparative fault lets the defendant try to show that other parties, including the injured person, were responsible for causing the plaintiff’s injuries and damages.

The more percentage of fault the defendant can attribute to other parties lowers the amount of damages the defendant will have to pay. This can directly affect your recovery since defendants fight very hard to pass the blame to others, including you as the injured person.

**Missouri: Pure Comparative Fault State** – Like many other states, Missouri follows a “pure” comparative fault system, in which a plaintiff who is partially responsible for his own injuries may only collect damages in proportion to the defendant’s degree of fault.

***Example:** Suppose the plaintiff proves damages of \$100,000. If a jury finds the defendant 80% at fault and the plaintiff 20% at fault, the plaintiff could recover \$80,000. If the defendant is only found 30% at fault and the plaintiff 70%, then the plaintiff could still recover \$30,000.*

**Kansas: Modified Comparative Fault** – A modified comparative fault system works the same as pure comparative fault until the plaintiff is found 50% or more at fault. If found 50% or more at fault, Kansas law does not allow the plaintiff to recovery anything.

***Example:** Given damages of \$100,000, if a jury finds the defendant and plaintiff equally at fault (50-50), the plaintiff recovers nothing in Kansas. In Missouri, the plaintiff still would have recovered \$50,000.*

## Damage Caps in Missouri and Kansas

Many personal injury cases involve two main types of damages: special damages, and pain and suffering damages.

**Special damages** (“economic damages”) compensate the claimant for quantifiable monetary losses suffered by the plaintiff—medical bills, lost wages, future medical bills, future lost wages, repair or replacement of damaged property, and other specific costs.

**Pain and suffering damages** (“noneconomic damages”) compensate an injured person for the sum total of the suffering, grief, pain, and emotional issues that develop from their injuries.

Special damages are unlimited in Missouri and Kansas, but both states place limitations, called damage caps, on pain and suffering damages. However, these caps are applied differently in each state.

Type of Case	Pain and Suffering Damage Caps	
	Missouri	Kansas
Automobile accident	none	\$300,000
Motorcycle accident	none	\$300,000
Semi-truck accident	none	\$300,000
Injury from defective product	none	\$300,000
Slip and fall injury	none	\$300,000
Medical malpractice	none	\$300,000
Wrongful death (general)	none	\$300,000
Wrongful death (medical-malpractice)	\$700,000	\$300,000
Any other personal injury claim	none	\$300,000

A state's damage caps can have a significant impact when your injury or case supports a high pain and suffering award. For example, if a breadwinning spouse is killed in a work accident, the wrongful death benefit in Missouri could be \$1,000,000. In Kansas, the same wrongful death benefit would be limited at \$300,000.

## Contact The Pottenger Law Firm

The personal injury attorneys at The Pottenger Law Firm are experienced in representing clients across Missouri and Kansas state lines. We evaluate the unique circumstances of each case and position our clients to be able to pursue the maximum damages for their injuries. To find out more and schedule a free consultation, please visit [www.PottengerLaw.com](http://www.PottengerLaw.com) or call 816.531.6006 today.

## About Us

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The personal injury and wrongful death trial lawyers of **The Pottenger Law Firm LLC** provide experienced and compassionate advocacy for victims of serious injury caused by negligence. Based in Kansas City, Missouri, we have secured hundreds of verdicts and settlements arising from motor vehicle accidents, workplace injuries, medical negligence and nursing home injury, defective medical products and unsafe premises.

We provide a free consultation, including evening or weekend appointments and home or hospital visits if your injuries prevent travel. We handle all injury cases on a contingency basis—no attorney fees unless we recover compensation. Call today at **816-531-6006** or visit [pottengerlaw.com](http://pottengerlaw.com) to learn more.