

The Missouri Supreme Court Upholds a Jury's Award of Punitive Damages in a Medical Malpractice Case but Issues a Strong Warning to Future Litigants

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The *Rhoden* Court reached its decision applying an earlier version of RSMo § 538.210.8, the statute that allows for punitive damages in medical negligence actions, because the patient died in 2013. The statute was amended, effective August 28, 2020, to apply a more stringent standard to the application of punitive damages in medical negligence cases. "Indifference to or conscious disregard for the safety of others" is no longer the standard to demonstrate the requisite intentional or malicious conduct. In all cases filed after August 28, 2020, a plaintiff seeking punitive damages will have to prove by clear and convincing evidence that "the health care provider intentionally caused damage to the plaintiff or demonstrated malicious misconduct that caused damage to the plaintiff." This is a much higher standard than that used in *Rhoden* decision. The *Rhoden* Court cited the amendment to § 538.210, highlighting the limited application of its decision.

Due to the amendment to § 538.210, the *Rhoden* decision could have limited impact. However, if the constitutionality of the amendments to the statute creating a higher burden is challenged, and the new standard found unconstitutional, then the *Rhoden* Court's reasoning and holding will control.

If you have any questions about this topic or need assistance with any health law issues, please let us know.