

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

CHARMIN GIBSON, Plaintiff/Respondent,)	No. ED95949
v.)	Appeal from the Circuit Court
THE CITY OF ST. LOUIS, CITY OF ST. LOUIS)	of the City of St. Louis
WATER DEPARTMENT, and)	Honorable Margaret M. Neill
CITY OF ST. LOUIS STREET DEPARTMENT,)	Date: September 20, 2011
Defendants/Appellants.)	

The defendant city appeals from that part of a personal injury judgment against it denying its motion pursuant to section 537.060 RSMo (2000) to reduce the judgment by the amount of plaintiff's settlement of a medical malpractice lawsuit that had sought damages from the negligent treatment of one of plaintiff's injuries from the accident.

AFFIRMED.

Division Two Holds:

1. When the trial court rules on a reduction under section 537.060 RSMo (2000) as a matter of law, our review is de novo.
2. The City's negligence in maintaining its water mains or hydrants and the medical malpractice defendants' subsequent negligence in treating plaintiff were independent torts.
3. An original tortfeasor and a subsequently negligent physician are not joint tortfeasors.
4. Plaintiff's original injuries caused by the City's negligence and the aggravation of one of those injuries caused by the medical malpractice defendants' negligence were capable of division on a reasonable basis and did not constitute the "same injury."
5. Because the injuries were not the same, the City was not entitled to have the claim against it reduced under section 537.060 by the amount of the settlement with the medical malpractice defendants.

Opinion by: Kathianne Knaup Crane, P.J.
Lawrence E. Mooney, J. and Kenneth M. Romines, J., concur.

Attorneys for Respondent: Jamie L. Boock and Amanda L. Bosky

Attorneys for Appellants: Michael A. Garvin and Craig K. Higgins

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.