

IN THE CIRCUIT COURT OF PETTIS COUNTY, MISSOURI
DIVISION IV

JOSHUA R. GILMORE

Plaintiff,

VS.

Case No. 17PT-CC00092

KATHERINE L. PAGE

Defendant.

FILED
JUL 31 2017
SUSAN SADLER
CLERK CIRCUIT COURT

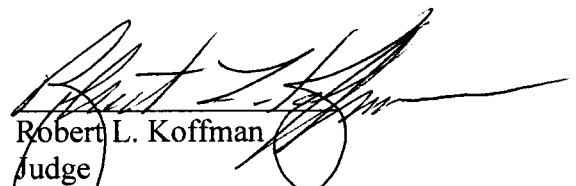
ORDER

Comes now the Court and, after having taken the matters under advisement, enters its order sustaining the plaintiff's motion on the pleadings as to defendant's affirmative defense cited under §303.390 RSMO as follows:

The plaintiff's cause of action is one that sounds in common law tort. The defendant has pled the affirmative defense cite above as a bar to that cause of action. Under the authority cited in *Watts v. Lester E. Cox Medical Centers*, 376 S.W. 3d 633 (Mo. banc 2012), the Court finds that the Legislature has attempted to remove the plaintiff's right under the Missouri Constitution to have his common law tort heard by a jury. It does not have the authority to trump the Missouri Constitution by statute.

Taking as true all of the averments made by the defendant, she cannot prevail on the defense as a matter of law. The Court finds for the plaintiff against the defendant on the pleadings related to the defendant's affirmative defense using §303.390 RSMO.

July 31, 2017


Robert L. Koffman
Judge