

THE PAPER SHIELD

MUTUAL AID AGREEMENTS FOR MISSOURI EMS

PRESENTED BY:

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TODAY'S ROUTE

50 minutes of fun Legal Stuff…

- **Dispatch —** the 2:00 a.m. call that frames everything
- **The architecture —** Sections 44.090, 70.837 & 190.107, RSMo
  - Who may agree, to what, and with whom
- **The shield wall —** Sovereign Immunity, Official Immunity, and the Public Duty Doctrine (Sections 537.600–537.610)
- **The Forge —** the Essential 7 Clauses and the Red Pen Test
- **Proof on the Ground —** Joplin, Branson, and COVID-19
- **Your Monday Morning —** Six moves before the next tone drops

THE 2:00 A.M. CALL

Every mutual aid lawsuit starts as a good deed

- **The scene:** A two-truck district, both units committed and then a rollover with entrapment on Highway 5
- **The response:** the neighboring district crosses your line, running hot… and T-bones a pickup
- **The fallout:** patient dies • driver paralyzed • medic injured • eighteen months later, everyone is served
- **Five questions decide the case:** Legal to respond? Whose employee? Whose protocols? Whose insurance? What does your paper say?
- **The thesis:** Mutual aid will happen with or without paperwork; the only question is whether yours is steel or paper

EVERYBODY'S IN THE POOL

MISSOURI'S MUTUAL AID ARCHITECTURE
Sections 44.090, 70.837 & 190.107 RSMo



Section 44.090 — THE BACKBONE STATUTE

You didn't join the statewide mutual aid system —> You were born into it

- **Automatic membership:** Every political subdivision and public safety agency is in the Missouri Statewide Mutual Aid System; opting out takes a board resolution filed with Dept. of Public Safety (Section 44.090.5)
- **Broad reach:** Agreements may include public and private agencies, in-state and out (Section 44.090.1)
- **Terms the statute dictates:** Compensation allowed; Indefinite term OK; 60-day cancellation notice mandatory; No agreements made to cut staffing (Section 44.090.2)
- **Administrator approved Mutual Aid** — If your board has adopted the policies the statute assumes (Section 44.090.3)
- **Strings attached:** DPS administers the system, and NIMS adoption is required (Section 44.090.6, .8)

YOUR PEOPLE STAY YOUR PEOPLE

Section 44.090.13 — the rule that decides the 2:00 a.m. lawsuit

- **Deemed employees:** Responders under the requesting agency's operational control remain employees of their own responding agency
- **Coverage travels:** Their liability and workers' compensation provisions follow them across the district line
- **So does the law:** aid is rendered "as if providing service within its own jurisdiction" (Section 44.090.4)
- **Drafting move:** Restate the statute, then fill its silences — discipline, exposure reporting, line-of-duty benefits

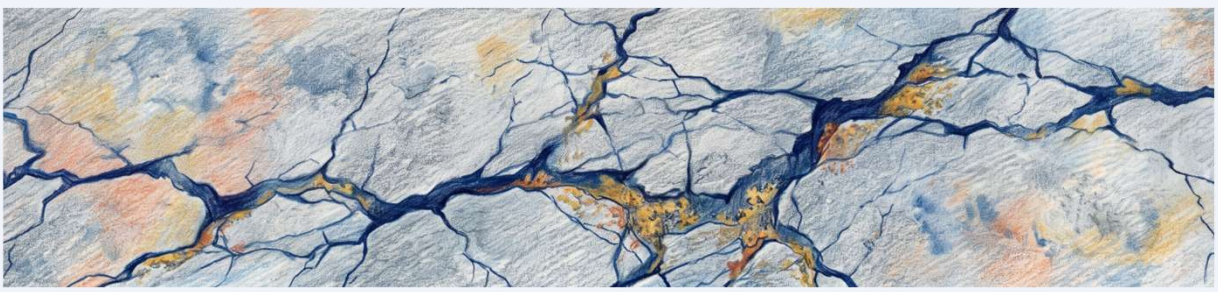
Section 190.107 — THE EMS CONTRACT POWER

The section your agreement should recite on page one

- **Who may contract:** Municipal ambulance services, ambulance districts, fire districts providing ambulance service, or any other ambulance service, with compensation and terms the parties choose (Section 190.107)
- **Border states:** Contracts with neighboring-state services work "in the exact same manner" as in-state contracts
- **The territorial key:** A license alone does not authorize operating where an ordinance requires a franchise, contract, or mutual-aid agreement (Section 190.105.4)
- **Supporting laws:** Section 70.837 (emergency aid), Section 70.220 (cooperation) Section 44.045 (declared-emergency deployments)
- **Audit the mandatory MOUs too:** EMRA and dispatch agreements (Sections 190.133–.134)

THE SHIELD WALL

IMMUNITIES — AND WHERE THEY CRACK



SOVEREIGN IMMUNITY — THE CASTLE WALL

Sections 537.600–537.610 RSMo

- **The wall:** Ambulance districts retain common-law sovereign immunity for governmental functions (Section 537.600.1)
- **Two gates in the wall:** Negligent operation of motor vehicles, and dangerous conditions of public property
- **The EMS punchline:** We are a profession of driving at speed and nearly every mutual aid claim is a driving claim (driving is 50% of all EMS liability claims!)
- **Billing doesn't break it:** City EMS is a governmental function even when fees are charged — *Richardson v. City of St. Louis* (Mo. App. E.D. 2009)
- **The Ceiling:** Statutory caps per person and per occurrence; no punitive damages against public entities (Section 537.610)

THE INSURANCE TRAP

Section 537.610

- **The rule:** Immunity is waived only to the extent, and for the purposes, of the coverage you actually purchase or self-insure
- **The trap:** Buy broader than the statutory waivers and you may have opened the castle gate to the limit of the policy
- **The ceiling:** Statutory caps per person and per occurrence (indexed to inflation) and no punitive damages
- **The fix:** Your agreement and your policy are one ecosystem so draft them together, and put your carrier on notice of every mutual aid obligation
- **Don't forget Section 190.120:** The ambulance coverage the license itself requires

THE ARMOR vs. THE CRACKS

THE ARMOR

- **Official immunity** for discretionary acts — *Southers v. City of Farmington* (Mo. banc 2008)
- **Public duty doctrine** — duties owed to all, actionable by none
- **Good Samaritan** protection for off-duty responders — Section 537.037
- Task-specific EMT immunity — Section 190.144

THE CRACKS

- **Official immunity** is personal — the employer still answers for vehicle operations: *Davis v. Lambert-St. Louis* (Mo. banc 2006)
- Insurance bought beyond the waivers can waive immunity to the extent of coverage (Section 537.610)
- **Good Samaritan** requires care "without compensation"

Gross negligence and willful conduct pierce everything

THE ESSENTIAL 7 CLAUSES

What separates a steel shield from a paper one

- **1. Authority —** Recite Sections 44.090, 70.837 & 190.107 and each board's approval
- **2. Activation —** Who may request, how, and the **right to decline or recall** resources
- **3. Command —** IC stays with the jurisdiction of occurrence; NIMS/ICS stated expressly
- **4. Coverage —** Restate Section 44.090.13: liability and workers' comp stay with the responding agency
- **5. Insurance —** Section 190.120 compliance, certificates exchanged, Section 537.610 alignment; "each bears its own" beats indemnity
- **6. Compensation —** Reimbursement tiers plus FEMA-grade documentation
- **7. Care —** Whose protocols govern? Consider regional medical direction as the tiebreaker

THE RED PEN TEST

Grade these clauses — steel or paper?

- **Exhibit A (1987):** "The parties agree to assist each other whenever possible." — that is the entire agreement
- **Exhibit B:** An indemnity clause promising to "defend and hold harmless from any and all claims" — strong words, weak law for a political subdivision
- **Exhibit C:** board-approved, NIMS command, Section 44.090.13 restated, insurance certificates attached, 60-day exit
- **The grading key:** Cite authority + Statutory parallel + Filled silences = Steel // Adjectives and Good intentions = paper
- **Your turn:** Pull your own agreement on Monday and run the same red pen

WHEN THE SHIELD WAS TESTED

Missouri case studies — proof on the ground

- **Joplin, 2011:** an EF-5 and hundreds of agencies under one statewide system — relationships and NIMS made the response work; documentation made reimbursement possible
- **Branson duck boat, 2018:** a mass-casualty scene on Table Rock Lake — and the litigation storm that followed touched everyone who responded
- **COVID-19:** sustained aid, Section 44.045 deployments, and the PREP Act layer and the pandemic exposed the handshake deals
- **The quiet everyday test:** Rural ambulance deserts, where daily reliance outgrows "no-paper" aid and needs a real Section 190.107 contract

YOUR MONDAY MORNING

Six moves before the first tone drops on your Monday

- Inventory every signed mutual aid document against the **Essential Seven Clauses**
- Adopt the board policies Section 44.090.3 assumes you already have (authorizing mutual aid)
- Gather your team: *attorney + insurance agent + chief* and reconcile coverage with your Section 537.610 strategy
- Verify NIMS adoption and training records (Section 44.090.8)
- Settle medical direction in writing with your neighbors before a scene settles it for you
- Calendar an annual joint review and fold in after-action lessons within 90 days



Questions?

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THANK YOU!