CHAPTER 613

PARTIES — CAUSES OF ACTION — LIABILITY

For Iowa court rules concerning parties and capacity,
see R.C.P. 1.201 – 1.212
For Iowa court rules concerning substitution of parties,
see R.C.P. 1.221 – 1.227
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see R.C.P. 1.251 – 1.257
For Iowa court rules concerning class actions,
see R.C.P. 1.261 – 1.279

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613.1 Joint and several obligations.

Where two or more persons are bound by contract or by judgment, decree, or statute, whether jointly only, or jointly and severally, or severally only, including the parties to negotiable paper, common orders, and checks, and sureties on the same or separate instruments, or by any liability growing out of the same, the action thereon may, at the plaintiff's option, be brought against any or all of them. When any of those so bound are dead, the action may be brought against any or all of the survivors, with any or all of the representatives of the decedents, or against any or all such representatives.

[C51, §1681, 1682; R60, §2764; C73, §2550; C97, §3465; C24, 27, 31, 35, 39, §**10975;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.1]

Separate trials, R.C.P. 1.914

613.2 Adjudication.

An action or judgment against any one or more of several persons jointly bound shall not be a bar to proceedings against the others.

[R60, §2764; C73, §2550; C97, §3465; C24, 27, 31, 35, 39, §**10976;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.2]

613.3 Repealed by 84 Acts, ch 1293, §12.

613.4 through 613.6 Repealed by 65 Acts, ch 413, §10102.

613.7 Written instrument.

When an action is founded on a written instrument, it may be brought by or against any of the parties thereto by the same name and description as those by which they are designated in such instrument.

[C51, §1692; R60, §2786; C73, §2558; C97, §3473; C24, 27, 31, 35, 39, §**10988;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.7]

613.8 Actions against state.

Upon the conditions herein provided for the protection of the state, the consent of the state be and it is hereby given, to be made a party in any suit or action which is now pending or which may hereafter be brought in any of the district courts of Iowa, any of the United States district courts within the state or in any other court of or in Iowa having jurisdiction of the

subject matter, involving the title to real estate, the partition of real estate, the foreclosure of liens or mortgages against real estate or the determination of the priorities of liens or claims against real estate, for the purpose of obtaining an adjudication touching or pertaining to any mortgage or other lien or claim which the state may have or claim to the real estate involved. The petition in such action shall specifically allege the interest or apparent interest of the state and the specific facts upon which the claim against the state is based and it shall be legally insufficient to allege said claim in general terms.

[C35, §10990-g1; C39, §**10990.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.8]
Referred to in **§613.10**

613.9 Service on state.

Service upon the state shall be made by serving a copy of the original notice with a copy of the petition upon the county attorney for the county, or counties, in which the real estate is located, and by sending a copy of the original notice and petition by certified mail to the attorney general, at Des Moines. The state shall appear within thirty days after the day such notice is served upon the county attorney or within thirty days after such notice is mailed to the attorney general, whichever is later.

[C35, §10990-g2; C39, §**10990.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.9]
Referred to in **§613.10**

613.10 Status of state as defendant.

After compliance with sections 613.11 and 613.12 and sections 613.8 and 613.9 the state of Iowa shall have the same standing as any other plaintiff or defendant and any and all orders, judgments, or decrees rendered and entered in any such action shall be binding on the state of Iowa in the same manner and degree as any other party to an action against whom such an order, judgment, or decree is entered, and the state of Iowa shall have the same rights in respect to the trial of such cause and in respect to any orders, judgments, or decrees entered therein, together with all rights of appeal, as any other similarly situated party would have.

[C35, §10990-g3; C39, §**10990.3;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §613.10]

613.11 Actions against department of transportation.

The state of Iowa hereby waives immunity from suit and consents to the jurisdiction of any court in which an action is brought against the state department of transportation respecting any claim, right, or controversy arising out of the work performed, or by virtue of the provisions of any construction contract entered into by the department. Such action shall be heard and determined pursuant to rules otherwise applicable to civil actions brought in the particular court having jurisdiction of the suit and the parties to the suit shall have the right of appeal from any judgment, decree, or decision of the trial court to the appropriate appellate court under applicable rules of appeal.

[C66, 71, 73, 75, 77, 79, 81, §613.11]
Referred to in **§573.15**, **§613.10**, **§613.14**

613.12 Venue.

Any such action shall name the Iowa state department of transportation as defendant and the venue for trial shall be in the county, or in the federal court district, where all or part of the construction work was performed.

[C66, 71, 73, 75, 77, 79, 81, §613.12]
Referred to in **§613.10**

613.13 Service of notice.

Service upon the state of Iowa shall be made by serving an original notice or summons, with a copy of the petition attached, upon any member of the Iowa state department of transportation in the manner provided for the service of original notices in actions brought in the district courts of the state of Iowa, or by serving summonses upon any member of the said department in the manner provided for service of summons in actions brought in United

States district courts, except only that the state shall be required to appear within thirty days after the day such notice or summons is served upon a member of the said department.

[C66, 71, 73, 75, 77, 79, 81, §613.13]

613.14 Limitation.

Actions against the state of Iowa authorized under the provisions of section 613.11 may be instituted within three years from the date of the completion or acceptance of the work, whichever date is later, except that this should not apply to contracts completed and accepted and for which final payment was made previous to July 4, 1963.

[C66, 71, 73, 75, 77, 79, 81, §613.14]

613.15 Injury or death of spouse or parent — measure of recovery.

In any action for damages because of the wrongful or negligent injury or death of a woman, there shall be no disabilities or restrictions, and recovery may be had on account thereof in the same manner as in cases of damage because of the wrongful or negligent injury or death of a man. In addition she, or her administrator for her estate, may recover for physician's services, nursing and hospital expense, and in the case of both women and men, such person, or the appropriate administrator, may recover the value of services and support as spouse or parent, or both, as the case may be, in such sum as the jury deems proper; provided, however, recovery for these elements of damage may not be had by the spouse and children, as such, of any person who, or whose administrator, is entitled to recover same.

[SS15, §3477-a; C24, 27, §10463; C31, 35, §10991-d1; C39, §**10991.1;** C46, 50, 54, 58, 62, §613.11; C66, 71, 73, 75, 77, 79, 81, §613.15]

613.15A Injury to or death of a child.

A parent or the parents of a child may recover for the expense and actual loss of services, companionship, and society resulting from injury to or death of a minor child and may recover for the expense and actual loss of services, companionship, and society resulting from the death of an adult child.

2007 Acts, ch 132, §1, 3

613.16 Parental responsibility for actions of children.

1. The parent or parents of an unemancipated minor child under the age of eighteen years shall be liable for actual damages to person or property caused by unlawful acts of such child. However, a parent who is not entitled to legal custody of the minor child at the time of the unlawful act shall not be liable for such damages.

2. The legal obligation of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

a. Not more than two thousand dollars for any one act.

b. Not more than five thousand dollars, payable to the same claimant, for two or more acts.

3. The word "*person*" for the purpose of this section shall include firm, association, partnership or corporation.

4. When an action is brought on parental responsibility for acts of their children, the parents shall be named as defendants therein and, in addition, the minor child shall be named as a defendant. The filing of an answer by the parents shall remove any requirement that a guardian ad litem be required.

[C71, 73, 75, 77, 79, 81, §613.16]

94 Acts, ch 1172, §40

Referred to in **§624.38**, **§645.3**

613.17 Emergency assistance in an accident.

1. A person, who in good faith renders emergency care or assistance without compensation, shall not be liable for any civil damages for acts or omissions occurring at the place of an emergency or accident or while the person is in transit to or from the emergency or accident or while the person is at or being moved to or from an emergency shelter

unless such acts or omissions constitute recklessness or willful and wanton misconduct. An emergency includes but is not limited to a disaster as defined in section 29C.2 or the period of time immediately following a disaster for which the governor has issued a proclamation of a disaster emergency pursuant to section 29C.6.

a. For purposes of this subsection, if a volunteer fire fighter, a volunteer operator or attendant of an ambulance or rescue squad service, a volunteer paramedic, a volunteer emergency medical technician, or a volunteer registered member of the national ski patrol system receives nominal compensation not based upon the value of the services performed, that person shall be considered to be receiving no compensation.

b. For purposes of this subsection, operation of a motor vehicle in compliance with section 321.231 by a volunteer fire fighter, volunteer operator, or attendant of an ambulance or rescue squad service, a volunteer paramedic, or volunteer emergency medical technician shall be considered rendering emergency care or assistance.

c. For purposes of this subsection, a person rendering emergency care or assistance includes a person involved in a workplace rescue arising out of an emergency or accident.

2. The following persons or entities, while acting reasonably and in good faith, who render emergency care or assistance relating to the preparation for and response to a sudden cardiac arrest emergency, shall not be liable for any civil damages for acts or omissions arising out of the use of an automated external defibrillator, whether occurring at the place of an emergency or accident or while such persons are in transit to or from the emergency or accident or while such persons are at or being moved to or from an emergency shelter:

a. A person or entity that acquires an automated external defibrillator.

b. A person or entity that owns, manages, or is otherwise responsible for the premises on which an automated external defibrillator is located if the person or entity maintains the automated external defibrillator in a condition for immediate and effective use at all times, subject to standards developed by the department of public health by rule.

c. A person who retrieves an automated external defibrillator in response to a perceived sudden cardiac arrest emergency.

d. A person who uses, attempts to use, or fails to use an automated external defibrillator in response to a perceived sudden cardiac arrest emergency.

e. A person or entity that provides instruction in the use of an automated external defibrillator.

[C71, 73, 75, 77, 79, 81, §613.17; 82 Acts, ch 1198, §1]
91 Acts, ch 182, §1; 96 Acts, ch 1219, §74; 2008 Acts, ch 1052, §1; 2009 Acts, ch 40, §1
Referred to in **§139A.2**, **§141A.1**
See also §915.3

613.18 Limitation on products liability of nonmanufacturers.

1. A person who is not the assembler, designer, or manufacturer, and who wholesales, retails, distributes, or otherwise sells a product is:

a. Immune from any suit based upon strict liability in tort or breach of implied warranty of merchantability which arises solely from an alleged defect in the original design or manufacture of the product.

b. Not liable for damages based upon strict liability in tort or breach of implied warranty of merchantability for the product upon proof that the manufacturer is subject to the jurisdiction of the courts of this state and has not been judicially declared insolvent.

2. A person who is a retailer of a product and who assembles a product, such assembly having no causal relationship to the injury from which the claim arises, is not liable for damages based upon strict liability in tort or breach of implied warranty of merchantability which arises from an alleged defect in the original design or manufacture of the product upon proof that the manufacturer is subject to the jurisdiction of the courts of this state and has not been judicially declared insolvent.

3. An action brought pursuant to this section, where the claimant certifies that the manufacturer of the product is not yet identifiable, tolls the statute of limitations against such manufacturer until such time as discovery in the case has identified the manufacturer.

86 Acts, ch 1211, §32
Referred to in **§455B.803**

613.19 Personal liability.

A director, officer, employee, member, trustee, or volunteer, of a nonprofit organization is not liable on the debts or obligations of the nonprofit organization and a director, officer, employee, member, trustee, or volunteer is not personally liable for a claim based upon an act or omission of the person performed in the discharge of the person's duties, except for acts or omissions which involve intentional misconduct or knowing violation of the law, or for a transaction from which the person derives an improper personal benefit. For purposes of this section, "*nonprofit organization*" includes an unincorporated club, association, or other similar entity, however named, if no part of its income or profit is distributed to its members, directors, or officers.

87 Acts, ch 212, §19

613.20 Limitation on liability for motor vehicle operation — felons.

1. Except as provided in subsection 2, in an action to recover damages arising out of the operation or use of a motor vehicle, a person shall not recover noneconomic losses including, but not limited to, pain and suffering if the injured person was the operator of a motor vehicle, a passenger in a motor vehicle, or a pedestrian and the person's injuries were proximately caused by the person's commission of any felony, or immediate flight therefrom, and the injured person was duly convicted of that felony.

2. This section does not apply if the injured person is found to have no fault in the accident.

3. If a person injured in a motor vehicle accident has been formally charged with the violation of the felony referred to in subsection 1, but a final determination regarding guilt has not been made, liability and uninsured and underinsured motorist insurers, to whom a claim for damages has been presented, shall advise the injured party that settlement of the claim will not be resolved until a final judgment is rendered on the charges. The injured party claiming damages shall provide evidence of the outcome of any criminal charges.

2000 Acts, ch 1062, §1

613.21 Immunity from civil suit.

An employee of an accredited public school district, accredited nonpublic school, or area education agency shall be immune from civil suit for reasonable acts undertaken in good faith relating to participation in the making of a report and any resulting investigation or administrative or judicial proceedings regarding violence, threats of violence, or other inappropriate activity against a school employee or student, pursuant to the provisions of section 280.27.

2000 Acts, ch 1162, §2