

For any questions, call David J. Flynn
(312) 540-7662



www.querrey.com[®]

© 2024 Querrey & Harrow, Ltd. All rights reserved.

ILLINOIS LAW MANUAL
CHAPTER III
CROSS-CLAIMS & THIRD-PARTY PRACTICE

C. EQUITABLE APPORTIONMENT

Equitable apportionment differs from both indemnity and contribution. While contribution deals with the apportionment of damages based on joint liability for the same injury, equitable apportionment focuses on liability for separate and distinct damages to the injured person. The leading case illustrating this doctrine is Gertz v. Campbell, 55 Ill. 2d 84 (1973); See also Solich v. George and Anna Portes Cancer Prevention, et al., 273 Ill. App. 3d 977 (1995) (making reference to Gertz as precedent before the acceptance of contribution in Illinois). In the Gertz case, the defendant was responsible for the plaintiff's fractured leg and sought reimbursement from a physician for the part of the plaintiff's damages attributable to the alleged negligence of the physician. Under applicable tort law, the defendant was subject to liability for all of the plaintiff's damages, including the amputation for which the doctor was responsible. Therefore, the court held that the defendant/third-party plaintiff had a right to sue the physician for the plaintiff's damages attributable to the subsequent malpractice under the doctrine of equitable apportionment. Equitable apportionment is not available to an intentional tortfeasor.