



If you have questions
or would like further
information regarding
Equitable
Apportionment,
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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.