

## Court Denies Contribution Claims Against Providers

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Medical providers may not be joined by product manufacturers in cases where a defective product causes an injury and the providers treated the injury, according to the U.S. District Court for the Middle District of Pennsylvania.

In response to a recent third-party contribution claim, Judge Sylvia Rambo held in [\*Bachtell v. General Mills, Inc.\*](#) that under Pennsylvania case law "a tortfeasor originally causing an injury and a physician who subsequently aggravates or causes a new injury are not joint tortfeasors" - entities that have committed a civil offense injuring another party.

In the *Bachtell* case, the plaintiff's son shot an icing pouch cap into his mouth. The boy died from choking on the cap after receiving medical treatment. The plaintiff sued the product's manufacturer, and the manufacturer then filed third-party contribution claims against the treating medical providers. The plaintiffs had already reached a medical malpractice settlement with the medical providers.

However, Judge Rambo granted a motion to dismiss the medical malpractice defendants from the contribution claims for a number of reasons. Led by Elizabeth Melamed of Barley Snyder, the medical malpractice defendants filed a motion to dismiss the contribution claims, which was granted by Judge Rambo.

Judge Rambo importantly wrote that the product manufacturers and medical malpractice defendants "bore completely distinct duties to [the] Plaintiffs; their liability turns on distinct evidence; and the amount they each contributed to [the] Plaintiffs' ultimate injury can in fact be distinguished." She also significantly wrote, "different causation theories could render different amounts of harm attributable to each defendant."

Judge Rambo wrote that while ordinarily in Pennsylvania an original tortfeasor may be held liable for subsequent damage caused by a medical provider, but the "Plaintiffs here have not alleged that the Manufacturer Defendants are liable for any harm caused by the Medical Malpractice Defendants."

The court emphasized the importance of the plaintiff's intention to hold only the manufacturer defendants accountable for their portion of plaintiffs' injuries and damages and that she was not seeking to hold the manufacturer defendants liable for the medical malpractice defendants' conduct. Because of this, even if the parties were joint tortfeasors, the court held that there is no "chance of double-recovery" and "contribution [is] inapplicable."

If you have any questions about this case and how it can affect a case of yours, contact [Elizabeth Melamed](#), [Eric Ondo](#) or any member of the [Barley Snyder Litigation Practice Group](#).

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