

Court Decides on Joint Tortfeasors Under PA Law

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This past August, in the case of *Bachtell v. Gen. Mills, Inc.*, No. 1:18-cv-02292, 2020 U.S. Dist. LEXIS 153667 (M.D. Pa. Aug. 25, 2020), the District Court for the Middle District of Pennsylvania dismissed a third-party complaint by a medical product manufacturer seeking contribution from the healthcare providers that treated Plaintiffs' deceased son with the product, after their child choked on the manufacturer defendants' allegedly defective product. The Court noted that a tortfeasor that originally caused an injury and a physician who subsequently aggravates or causes a new injury are not considered to be joint tortfeasors under Pennsylvania law. *See Voyles v. Corwin*, 441 A.2d 381, 384 (Pa. Super. Ct. 1982). Accordingly, the Court concluded that the healthcare providers and manufacturer defendants were not joint tortfeasors because (i) the duty of care owed to Plaintiffs differed; (ii) liability hinged on distinct evidence; and (iii) the amount that each contributed to Plaintiffs' ultimate injury were distinguishable. Additionally, the fact that Plaintiffs were not seeking to hold the manufacturer defendants liable for any harm caused by the healthcare providers rendered joinder inappropriate.

This Middle District's reaffirmation of longstanding Pennsylvania law is a good reminder for medical practice defense attorneys whenever a manufacturer may be trying to take advantage of possible contribution by adding names to the verdict sheet.

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