

MedChi Joins an Amicus Brief in Spense v. Julian

In a case that arises out of a malpractice action against Dr. Julian and Mercy Medical Center over birth injuries sustained by Cleb Spense. Prior to trial, Spense settled with Mercy and granted a release agreement which provided that “no one else” (namely Julian) would be entitled to a reduction in damages by reason of the settlement unless Mercy was adjudicated to be a joint tortfeasor.

At trial, Julian was found liable and assessed damages in excess of \$8M (reduced to \$2.1 M). Sometime later, Spences asked for declaratory judgment asserting that Dr. Julian had no right to contribution from Mercy. Julian filed claim against Mercy asking for contribution. Claims were heard by separate judges; in each case, the judge found against the party initiating the action.

The Court of Special Appeals found in favor of Dr. Julian and asserted that

Where a plaintiff enters into a settlement agreement with one defendant, pursuant to a release that provides that no other person is entitled to a reduction of damages by reason of the settlement unless the settling defendant is adjudicated a joint tort-feasor, the nonsettling defendant has a right to pursue a claim for contribution in a separate proceeding filed after the conclusion of the underlying case.

(In other words, the non-settling defendant does not have to pursue the claim for contribution in the trial of the original action.)

The case is noteworthy in that institutional defendants are lining up with the plaintiffs’ bar in this case. In a joint amicus brief, Hopkins, LifeBridge, MedStar, and University explained their support for overturning the decision as being that “if left to stand [it] would leav[e] no practical and predictable way for the Health System *Amici* to ‘buy their peace’ in the appropriate case for their institutions and thousands of employees.”

However, a reversal of the Court of Special Appeals decision would increase pressure on defendants to settle, out of concern of being left holding the bag and having to cover the entire damages awarded. Thus, Medical Mutual requested our support for an amicus brief asking the Court to uphold the decision.