

### **§ 1B-3. Enforcement.**

(a) Whether or not judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced by separate action.

(b) Where a judgment has been entered in an action against two or more tort-feasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(c) If there is a judgment for the injury or wrongful death against the tort-feasor seeking contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after final judgment is entered in the trial court in conformity with the decisions of the appellate court.

(d) If there is no judgment for the injury or wrongful death against the tort-feasor seeking contribution, his right of contribution is barred unless he has either

- (1) Discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment,
- (2) Agreed while action is pending against him to discharge the common liability and has within one year after the agreement paid the liability and commenced his action for contribution, or
- (3) While action is pending against him, joined the other tort-feasors as third-party defendants for the purpose of contribution.

(e) The recovery of judgment against one tort-feasor for the injury or wrongful death does not of itself discharge the other tort-feasors from liability to the claimant. The satisfaction of the judgment discharges the other tort-feasors from liability to the claimant for the same injury or wrongful death, but does not impair any right of contribution. Provided, however, that a consent judgment in a civil action brought on behalf of a minor, or other person under disability, for the sole purpose of obtaining court approval of a settlement between the injured minor or other person under disability and one of two or more tort-feasors, shall not be deemed to be a judgment as that term is used herein, but shall be treated as a release or covenant not to sue as those terms are used in G.S. 1B-4 unless the judgment shall specifically provide otherwise.

(f) The judgment of the court in determining the liability of the several defendants to the claimant for the same injury or wrongful death shall be binding as among such defendants in determining their right to contribution. (1967, c. 847, s. 1; 1973, c. 465, s. 1; 1975, c. 866, s. 5.)