

TITLE 7: CIVIL PROCEDURE
DIVISION 2: ACTIONS AND SPECIAL PROCEEDINGS

§ 2902. Apportionment of Damages.

(a) In all actions involving fault of more than one party to the action, including third-party defendants and persons who have been released under Section 2906 of this Act, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating:

(1) the amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

(2) the percentage of the total fault of all the parties to each claim that is allocated to each claimant, defendant, third-party defendant, and person who has been released from liability under Section 2906 of this Act. For this purpose the court may determine that two or more persons are to be treated as a single party.

(b) In determining the percentage of fault, the trier of fact shall consider both the nature of the conduct of each party at fault and the extent of the causal relation between the conduct and the damages claimed.

(c) The court shall determine the award of damages to each claimant in accordance with the findings, subject to any reduction under Section 2906 of this Act, and enter judgment against each party liable on the basis of rules of joint-and-several liability. For purposes of contribution under Sections 2904 and 2905 of this Act, the court also shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault.

(d) Upon motion made not later than one year after judgment is entered, the court shall determine whether all or part of a party's equitable share of the obligation is uncollectible from that party, and shall reallocate any uncollectible amount among the other parties, including a claimant at fault, according to their respective percentages of fault. The party whose liability is reallocated is nonetheless subject to contribution and to any continuing liability to the claimant on the judgment.

Source: PL 12-26, § 4, modified.