

STATE OF MICHIGAN
COURT OF APPEALS

COMPREHENSIVE HEALTH SERVICES, INC.,

Plaintiff-Appellant,

v

HARVEY MINKIN, M.D. and MICHIGAN
RADIOLOGY SERVICES, INC.,

Defendants-Appellees.

UNPUBLISHED

December 30, 1997

No. 198163

Wayne Circuit Court

LC No. 96-626050 NH

Before: McDonald, P.J., and Wahls and J. R. Weber*, JJ.

MEMORANDUM.

Plaintiff appeals by right summary disposition in favor of defendants in this suit for contribution. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Among the prerequisites to a viable suit for contribution are that the contributor make a reasonable effort to notify the contributee of the pendency of settlement negotiations and that the contributee be given a reasonable opportunity to participate in those settlement negotiations. MCL 600.2925a(3)(b) and (c); MSA 27A.2925(1)(3)(b) and (c). Because contribution is statutory, *O'Dowd v General Motors Corp*, 419 Mich 597; 358 NW2d 553 (1984), compliance with these statutory prerequisites is essential to maintain a suit for contribution. *Klawiter v Reurink*, 196 Mich App 263; 492 NW2d 801 (1992).

Here, the facts are undisputed. Defendants, who were originally parties to the underlying litigation, were notified of a settlement conference as ordered by the trial court. Such notice merely informed defendants that the trial court desired to see multilateral good faith settlement negotiations conducted under its aegis. However, plaintiff's settlement with the personal representative of the estate of Kelly Green in the underlying litigation resulted from bilateral negotiations conducted and brought to fruition without notice to defendants that plaintiff was negotiating a settlement of both its direct and vicarious liability, nor were defendants provided an opportunity to participate in those negotiations. Under these circumstances, the trial court properly granted summary disposition for defendants.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Gary R. McDonald

/s/ Myron H. Wahls

/s/ John R. Weber