

CERCLA SETTLEMENT ALLOCATION WORKSHEET

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Owner (O) cleans up a site for \$1 million.

Owner sues Defunct Corporation (D) and Gratuitous Corporation (G) for contribution.

Owner settles with Defunct Corporation for \$100,000.

How to allocate the liability?

Party	% liability	\$ liability	Low-ball settlement with D under UCFA* (deduct % share of liability)	Low-ball settlement with D under UCAJTA** (deduct actual settlement payment)
O	20	200,000	700,000 (200,000 + 500,000 shortfall)	450,000
D	60	600,000	100,000	100,000
G	20	200,000	200,000	450,000

* Uniform Comparative Fault Act (UCFA) takes the \$1 million total costs and subtracts D's equitable share, or \$600,000. It then allocates the remaining liability - \$400,000 – between the remaining PRPs. Here, O and G are both 20% liable, so vis-à-vis each other they split the liability 50/50. G has to pay \$200,000 to O. O therefore has collected \$100,000 from D and \$200,000 from G, meaning he ends up paying out the \$1 million, getting only \$300k back, for a total cost to him of \$700,000.

** Uniform Contribution Among Joint Tortfeasors Act (UCAJTA) reduces the total liability *rtq'vanto* – the dollar amount of what D has paid. This leaves \$900,000 to be allocated. The relative responsibility of O and G is the same as under the UCFA case, 50/50, so G pays O \$450k. O collects this amount plus the \$100k from D, leaving him holding \$450k in unrecovered response costs. Notice that under UCAJTA, a PRP seeking cost recovery does bear some of the risk of low-ball settlements – unlike the case a non-negligent plaintiff, who is guaranteed 100% liability being placed on the class of defendants and therefore does not bear the risk of low ball settlements.
