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The Chicken, the Egg, the Producer - the Quebec Court of Appeal Knows Which Came First!

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One more lengthy battle in a legal saga has just come to an end. Indeed, on June 4, 2008, the Court, comprised of Quebec's Chief Justice, Michel Robert, and Justices Jacques Chamberland and Louis Rochette, rendered a unanimous judgment.

To set the stage, consider a salmonella outbreak in Abitibi, some premature deaths, dozens of persons poisoned, three producing farms... Seventy-two (72) days of hearings in Superior Court and four (4) days in the Court of Appeal were required, a rarity in both venues. Even more unusual, this major case led to a legislative amendment allowing the judge designated to deal with it in Superior Court and appointed to the Court of Appeal during the trial to continue and complete it.

This key decision, highlighting the fundamental principles of product liability, applies the recent Domtar judgment rendered by the Supreme Court of Canada in November 2007 and innovatively rules that an agricultural producer must be likened more to a manufacturer than to a professional seller within the meaning of the Civil Code and is subject to the same obligations as a manufacturer.

Furthermore, we spend some time on the system of production and distribution of eggs destined for consumption in Quebec. Also, we have analyzed the points raised in the court of first instance as well as in the Court of Appeal

In conclusion, this judgment breaks new ground by clearly applying the same very strong presumptions to which manufacturers are subject (articles 1726 et seq. C.C.Q.) to "sophisticated" agricultural producers. In addition, we note that the determination to pursue a claim for punitive damages even after the court's comments leaving little room for doubt regarding the chances of having them awarded can result in an order to pay an opponent's legal costs, a rarity given past Court of Appeal decisions in this respect.

In the event one of the parties in question files an application for leave to appeal, it remains to be seen if the Supreme Court of Canada will agree to hear the argument - which came first, the chicken or the egg ...

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