

January 19, 2023

Davies Secures Significant Victory for Manufacturer in Product Liability Case

Davies successfully acted for Envergent Technologies LLC, a subsidiary of Honeywell International Inc. and UOP LLC, in proceedings that arose out of the construction and equipping of a biofuel production plant in the city of Port-Cartier, Québec. Envergent contracted with AE Côte-Nord Canada Inc. (AECN) to supply rapid thermal processing units, which turn woody biomass into a liquid biofuel.

AECN and its related company Arbec bois d'œuvre Inc. were sued by the contractors and subcontractors who constructed the plant. They claimed cost overruns related to the construction of the plant. AECN and Arbec called Envergent and UOP in warranty, alleging among other things that the equipment that Envergent delivered was defective and that Envergent and UOP are responsible for all amounts claimed by the contractors and subcontractors and for AECN's lost profits.

This case is particularly interesting because we raised several novel issues of Québec private international law on behalf of our clients, including questions related to a foreign manufacturer's liability for products and whether a governing law clause ordering the application of New York law trumps the Civil Code of Quebec's provisions regarding manufacturer's liability.

The case received significant media attention given the importance of the project to the Côte-Nord of Québec where the plant was built and the government investment it received.

The Superior Court ordered our client to pay only a small fraction of the claim, which was a notable victory for the team, which included George J. Pollack, Amélie Lehouillier, Gabriel Lavery Lepage and Joseph-Anaël Lemieux with assistance from Laurence Asselin. Our clients are appealing the portion of the award of damages.