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The International Comparative Legal Guide to:
Product Liability 2010

A practical cross-border insight into product liability work

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1 Liability Systems

1.1 What systems of product liability are available (i.e. liability in respect of damage to persons or property resulting from the supply of products found to be defective or faulty)? Is liability fault based, or strict, or both? Does contractual liability play any role? Can liability be imposed for breach of statutory obligations e.g. consumer fraud statutes?

A French statute dated 19 May 1998 which transposed into French law the 1985 EC Directive 85/374 on liability for defective products, introduced a specific system of strict product liability. Pursuant to Article 13 of this Directive, this strict liability system should not affect any rights an injured person might have under "*the rules of the law of contractual or non-contractual liability" or "a special liability system*". Accordingly, Article 1386-18 of the French Civil Code provides that the strict product liability system shall exist alongside the contractual or tort liability systems.

■ ***Strict product liability (Articles 1386-1 to 1386-18 of the French Civil Code)***

The statute dated 19 May 1998 (Act No. 98-389 on liability for defective products), implementing the Directive, introduced a new title, "*liability for defective products*", into the French Civil Code. This set of articles has been amended by two successive statutes, a "Simplification of the Law" statute dated 9 December 2004 and a statute of 5 April 2006.

This specific system of product liability is based on strict liability. It enables an injured party to bring an action without having to prove any breach of contract, fault or negligence on the part of the producer, the cornerstone of this system being the notion of "defect". The defective product is defined by Article 1386-4 of the French Civil Code as "*a product which does not provide the safety which a person is entitled to expect*", taking all circumstances into account.

The producer owes the same duty towards any injured party, whether a contracting party or a third party. For strict product liability to apply, the claimant must prove the product's defect, the existence of a damage (see question ***6.2*** below) and the causal link between the defect and such damage.

■ ***Contractual liability***

Where the injured party is in privity of contract with the supplier, he or she has no option, apart from using the strict liability system, but to bring a suit based under contract law. Moreover, there are cases where, despite the absence of privity of contract with the liable person, an injured party must however sometimes sue this person under contract law. This is the case when there are several successive sale contracts, forming a "chain" of French contracts, which all transfer the property of the same product, and a dispute arises between different parties to the successive contracts.

Pursuant to the general principles of French contract law developed by case law, if there is privity of contract between the supplier and the injured party, the latter may recover damages if he or she can prove the following:

1. the supplier failed to comply with an express or implied obligation (an implied obligation is one provided by law or case law, irrespective of the terms of said contract);
2. there is a causal link between such a failure and the injury suffered; and
3. the damage suffered by the injured party was foreseeable at the time of the formation of the contract. Yet, a supplier will be liable for those unforeseen and unforeseeable injuries which resulted from his fraudulent or grossly negligent behaviour.

The injured party may also rely on the **warranty against hidden defects** (Articles 1641 *et seq.* of the French Civil Code). Under these provisions, the seller may be held liable where a defect, which is not apparent, renders the product sold unfit for the use for which it is intended, or diminishes the usefulness of the product to such a point that the plaintiff would not have acquired it or would not have paid the agreed-upon purchase price, had he or she known of the defect. The fact that the seller was unaware of the existence of such a defect is not a valid defence. Indeed, where the supplier is a professional (not a consumer), he is presumed to be aware of the hidden defects in the products he sells.

■ ***Tort liability***

Tort liability constitutes an appropriate remedy (except in the particular case of chains of contracts mentioned above) when a party is seeking damages for a damage which does not result from the breach of a contractual obligation by a co-contracting party.

Liability for fault based upon Article 1382 of the French Civil Code

Article 1382 of the French Civil Code provides that the plaintiff must prove:

1. that the defendant has been negligent, e.g. failed to behave like a "reasonable man", or breached an obligation imposed by a statute or regulation;
2. that he or she has suffered a loss; and
3. that there is a causal link between the two.

Although there is a strict separation under French law between liability in contract and in tort, it is possible for a person who suffered damage from a breach of contract he or she was not privy to, to rely on such a breach in order to satisfy the first condition of Article 1382.

Article 1382 applies irrespectively of the intentional breach or omission to act as a reasonable man.

Strict tort liability based upon Article 1384 of the French Civil Code

Article 1384 provides that "*one shall be liable [...] for the things that one has under one's custody*". Under this system of liability, no fault is required. The claimant only has to prove that his or her injury was caused by a "thing", of which the defendant had the powers of use, control and management.

As regards accidents caused by products, French case law has adapted this principle in order to hold a manufacturer or a distributor strictly liable, by considering that they have retained "custody" of the products, despite their apparent transfer to the users. This has been applied by case law when the product, by its nature, contained a latent potential for harm (e.g., explosion of products such as televisions, gas cylinders, fire extinguishers and bottles of sparkling water or sodas).

1.2 Does the state operate any schemes of compensation for particular products?

The French legislator has sometimes tried to ensure that where there are multiple victims of the same harmful product, these victims should be properly compensated. The State has budgeted for various funds created by the legislator (e.g., statute of 23 December 2000 creating the fund for the victims of asbestos ("FIVA")). The aim of such public compensation systems is to give victims full and fast compensation, instead of having to go through long and expensive court proceedings. Similarly, an establishment created in 2002 ("ONIAM") compensates victims on behalf of the State for some damages caused by medicines, such as serious side effects of mandatory vaccinations or therapeutic hazards. ONIAM also compensates patients contaminated by HIV or HCV *via* transfusions of blood and injections of blood-derived medications.

Such establishments and funds usually rely on both direct aid from the State and private insurance schemes. Moreover, they may bring subrogation actions before courts against the parties liable for the harmful effects of the products, under certain conditions.

1.3 Who bears responsibility for the fault/defect? The manufacturer, the importer, the distributor, the "retail" supplier or all of these?

Under *strict product liability*, a seller, lessor or professional distributor may only be held liable if the producer (defined by Article 1386-6 of the French Civil Code as the manufacturer of a finished product, producer of raw material, or the manufacturer of a component) is unknown (Article 1386-7 of the French Civil Code). He may escape liability by designating, within three months from the time he is notified of the victim's claim, his own supplier or the manufacturer.

Supposing he has not done so, the seller, lessor or professional distributor can still sue the producer, under the same rules as if he had been the victim and if he commences this action within one year of being sued under the strict product liability regime.

Under *contractual liability*, because there are implied warranties and obligations which bind the seller and/or the distributor, these parties may often be held liable for the defect of a product (e.g., on the grounds of the warranty against hidden defects, see question ***1.1*** above).

Under *Article 1382 of the French Civil Code*, any party in the distribution chain may be held liable if he or she has committed a fault.

Under *Article 1384 of the French Civil Code*, any party who may be regarded as having kept the powers of use, control and management over the product may be held liable. For example, the lessor of a device, having teams of technicians at his disposal, may be held liable, on the grounds that he had the power of control of the product (French Supreme Court, 3 October 1979).

When a product liability claim has been brought against a seller, lessor or professional distributor, they may then choose to bring a claim against another party further up the supply chain, either by a third-party action during the same proceedings (it is known as "*appel en garantie*" (Article 1640 of the French Civil Code)) or a claim for redress after they have been held liable (it is known as "*action récursoire*" (Article 1214 of the French Civil Code)).

1.4 In what circumstances is there an obligation to recall products, and in what way may a claim for failure to recall be brought?

Directive 2001/95/EC of 3 December 2001 on General Product Safety (hereinafter "GPSD"), which is aimed at protecting consumers from products that would not meet safety standards, was implemented into French law notably by an Ordinance dated 9 July 2004 and completed by an Ordinance dated 22 August 2008. In order to ensure such protection, national authorities have been granted additional powers and further obligations have been imposed on the manufacturers and distributors.

■ ***Follow-up and recall obligations***

Under the general principle of consumer safety set out in Article L.221-1 of the French Consumer Code, all products sold in France must, when used under normal conditions or under abnormal conditions which are reasonably foreseeable by a professional, present the level of safety which one may legitimately expect and not endanger the health of persons. This is a "performance obligation", which means that the sole failure to achieve this result will be regarded as a breach of this obligation.

The notion of professional covers producers and distributors. Since the Ordinance of August 2008, Article L.221-1 of the French Consumer Code clearly defines the notions of producer and distributor.

The producer has a duty to take the necessary measures to be kept informed of any risk that his or her product may create and, where necessary, to withdraw and recall any product that may endanger the consumers (Article L.221-1-2 of the French Consumer Code).

The distributor shall not provide a product if he is aware of the fact that safety requirements are not fulfilled (Article L.221-1-4 of the French Consumer Code).

Given that producers and distributors are under an obligation to act diligently and may not supply products which they as professionals knew (or should have known) did not meet the required standards, a failure to recall a defective product constitutes a fault, which may give rise to an action for compensation, should the other conditions of liability be fulfilled.

■ ***Notification obligation***

Producers and distributors are obliged to immediately notify the authorities (DGCCRF, DGAL or DSCR depending on the nature of the product) if they discover that their product is dangerous (Article L.221-1-3 of the French Consumer Code). The method by which the professional must inform the authorities, including the required information and the appropriate authorities for different categories of products, is prescribed by a Notice to the operators dated 10 July 2004 and a Ministerial order dated 9 September 2004. The failure to notify the French authorities will not give rise *per se* to a

sanction, but it will be taken into account in any civil or criminal proceedings concerning the product.

■ ***Powers of the administration***

Independently from the affirmative actions of the suppliers, investigations and checks are performed on a regular basis by civil servants, e.g., the agents of the DGCCRF. They monitor the products found on the market, and their conclusions are sent to the competent Ministry, which may order appropriate measures.

Temporary measures may be taken by the Ministry if the danger presented by the goods is serious or immediate. The production, importation, exportation, sale, distribution or availability of the goods may be suspended for a period not exceeding one year. The authorities may also order that the product be withdrawn from the market wherever it may be found, destroyed if such destruction is the only means available to prevent the danger, or that the supplier issues warnings and supplemental instructions, or carry out recalls, exchanges, modifications or reimbursements. Where such temporary measures have been taken, the product in question may however be reintroduced into the market before the end of the temporary suspension period, if it has been certified that it complies with all applicable regulations (Article L.221-5, paragraph 3 of the French Consumer Code).

Whenever a product violates the general principle of consumer safety, the administration may also order ***permanent measures*** after consulting the Commission for Consumer Safety (which is composed of experts, members of administrative and civil courts and representatives of consumer associations). These permanent measures may consist of ordering that such products be withdrawn from the market, recalled in order to be modified, repossessed by the seller in consideration for either the reimbursement of all or part of the purchase price or their exchange against conforming goods, or destroyed.

Violation of orders given by any appropriate government authority with respect to the safety of products is a criminal offence. The supplier may also receive additional sanctions, such as the publication at his own expense of the decision which convicted him of the violation, the withdrawal or destruction of the products which violate the applicable safety standards, and/or the confiscation of all or part of the proceeds of the sale of goods which violate applicable safety norms.

1.5 Do criminal sanctions apply to the supply of defective products?

The harmful effects of a product may constitute grounds for criminal sanctions. Brought by the public prosecutor on his or her own initiative or following from a complaint filed by a victim, prosecutions in matters of product liability may be based upon the alleged criminal conduct of the manufacturer, distributor and/or seller. In addition to the criminal conviction of the guilty party, the victim may obtain civil damages from such party before the criminal court.

The main offences provided for by the French Criminal Code which may apply in respect of product liability are presented below.

Endangering the lives of others. Article 223-1 of the French Criminal Code prohibits "*the direct exposure of another person to an immediate risk of death or injury likely to cause mutilation or permanent disability by the manifestly deliberate violation of a particular obligation of safety or caution imposed by law or regulation*". The mere fact that there was a danger is enough to convict without it being necessary to prove that the victim actually suffered injury.

Infliction of bodily injury. Whenever a product causes bodily injury, the supplier may potentially be subject to criminal sanctions. If the bodily injury results in the death of the victim, the supplier may be found guilty of manslaughter ("*homicide involontaire*", Article 221-6). If the bodily injury suffered by the victim does not result in death, the sanctions imposed on the supplier vary, depending on whether the victim was unable to work for more or less than three months (unintentional bodily harm, Articles 222-19 and 222-20).

Recently, a car manufacturer has been held liable on the grounds of manslaughter and unintentional bodily harm following a car accident in which a failure of the braking system was held to have played a role.

Offences involving fraud. A supplier may be held criminally liable where he or she deceived the person to whom the product was sold by furnishing inexact or partial information (*deceit*, Article L.213-1 of the French Consumer Code) or where he or she sold a product for human or animal consumption which was falsified and thus did not conform to the various regulations prescribing the raw materials and methods used to make the product (*falsification*, Article L.213-3 of the French Consumer Code).

It should be noted that since 1 March 1994, legal entities may be found criminally liable for offences committed after this date by one of their management bodies or representatives acting on their behalf. All offences listed by French law are applicable to the conduct of legal entities since 31 December 2005, whereas only the offences which specifically provided so were applicable to legal entities before that date.

If a legal entity is found criminally liable, this does not prevent its legal representative from being held liable as well. However, following a statute dated 10 July 2000, the conditions for criminal liability of company legal representatives are not as broad as the ones applicable to companies. Moreover, in some cases, French law specifically provides that persons other than the legal representative of the company may be held criminally liable (e.g., pursuant to Article L.5124-2 of the French Public Health Code, "*responsible pharmacists*" are personally responsible for complying with provisions relating to the safety of a medication manufactured and sold by a pharmaceutical company).

2 Causation

2.1 Who has the burden of proving fault/defect and damage?

The burden of the proof generally falls on the claimant according to the rule "*actori incumbit probatio*" (Article 9 of the French Code of Civil Procedure, Article 1315 of the French Civil Code, in respect of contracts or obligations). Pursuant to this principle, an injured party must prove that the supplier of a product is at fault, that he or she has suffered a legally recognised injury and that there is a causal link between the fault of the supplier and the damage suffered.

However, in certain fields, the defendant may have to rebut the presumption that he or she is at fault. For example, a supplier of a product may be presumed to be at fault if he or she failed to respect his obligation to warn the injured party of the inherent dangers of the product. In other cases, such as under strict tort liability based upon Article 1384 of the French Civil Code, the third party injured by a product does not even have to prove the fault of the supplier of such product, as long as the supplier is deemed to have retained control over the product (see question ***1.1***).

2.2 What test is applied for proof of causation? Is it enough for the claimant to show that the defendant wrongly exposed the claimant to an increased risk of a type of injury known to be associated with the product, even if it cannot be proved by the claimant that the injury would not have arisen without such exposure?

The same principle relating to the existence of a causal link applies in the different liability systems. As a general rule, the damage must be the immediate and direct result of the supplier's breach. Whether there is a direct causal relationship will be determined on a case-by-case basis by the trial courts based on two principal theories of causation. The first, called the theory of "equivalent conditions", provides that an act or omission will be deemed to be the proximate cause of the damage, if such damage would not have occurred in its absence. The second theory, known as the theory of adequate causality, provides that an act or omission will be deemed to be the proximate cause of the damage if, "*given the normal course of events*", this act or omission made it probable that the damage would occur.

It is difficult to predict how these theories will be applied. For example, the French Supreme Court adopted the theory of equivalent conditions in cases involving a victim of a car accident who was infected by a virus, as a result of a blood transfusion following surgery rendered necessary by the accident (French Supreme Court, 17 February 1993 (AIDS), 12 July 2007 (hepatitis C)). In these cases, the judges reasoned that the proximate cause of the injury was the car accident. Consequently, the party responsible for this accident was held liable for the damage suffered by the victim of the contaminated transfusion. In comparison, when a teenager set fire to a barn with a lighter that had fallen out of the pocket of another teenager, the court adopted the theory of adequate causality and held that the teenager who lost his lighter was not liable for the damage caused by the fire (French Supreme Court, 25 October 1973).

With six judgments handed down on 22 May 2008, the French Supreme Court has modified its position on the causal link in the pharmaceutical field. The French Supreme Court now requires the judges to support their decisions with sufficient factual arguments in addition to epidemiology showing a causal link or not. In this respect, the judges can rule on the basis of serious, precise and concordant presumptions. On the contrary, they can no longer rely only on the lack of scientific certainty to dismiss the claims. By a decision dated 9 July 2009, the French Supreme Court went beyond the 22 May 2008 decisions by considering that the causal link had been established by the combination of the two following criteria: (i) the time proximity between the Hepatitis B vaccination and the development of multiple sclerosis; and (ii) the absence of other individual risk factors.

2.3 What is the legal position if it cannot be established which of several possible producers manufactured the defective product? Does any form of market-share liability apply?

In principle, there is no market-share liability in France. This absence is somehow rectified, under contractual law and tort law, by the system of joint and several liability (Article 1200 of the French Civil Code). For the injured party, the advantage is that he or she may obtain full compensation for his or her injury from any of the people held liable for the several acts or omissions, having each contributed to the damage. However, such joint and several liability may not be presumed (Article 1202 of the French Civil Code), i.e., it must have been contractually stipulated by the parties or be applicable as a direct effect of the law.

Under the strict product liability system, a supplier may only be held liable if the producer cannot be identified, and provided that the supplier does not inform the victim of the identity of the producer within three months of being notified of the claim of the injured person (Article 1386-7 of the French Civil Code).

2.4 Does a failure to warn give rise to liability and, if so, in what circumstances? What information, advice and warnings are taken into account: only information provided directly to the injured party, or also information supplied to an intermediary in the chain of supply between the manufacturer and consumer? Does it make any difference to the answer if the product can only be obtained through the intermediary who owes a separate obligation to assess the suitability of the product for the particular consumer, e.g. a surgeon using a temporary or permanent medical device, a doctor prescribing a medicine or a pharmacist recommending a medicine? Is there any principle of "learned intermediary" under your law pursuant to which the supply of information to the learned intermediary discharges the duty owed by the manufacturer to the ultimate consumer to make available appropriate product information?

Failure to warn may give rise to liability on different grounds. The intensity of the obligation of information and the burden of the proof regarding the delivery of the information will vary depending on the knowledge and quality of the parties in presence. Lack of information may give rise to liability based on either tort, should the information have to be given before the conclusion of the contract (i.e., information which may influence the other party's decision to conclude the contract, such obligation sometimes being provided for by the law, e.g., Articles L.111-1 to L.111-3 of the French Consumer Code), or on the ground of contractual liability, if the information should have been given during its performance (e.g., information of the user as to the manner in which the product is to be employed and which is necessary to use the product properly and accomplish the task for which it was designed).

The obligation to warn comes into play whenever the supplier or the seller has a particular technical or professional expertise relating to the product to be sold or when the party with whom he deals is so inexperienced or incompetent that he would be unable to obtain such information himself. The fact that a particular product may not appear harmful to the supplier does not discharge the latter's obligation to warn the purchaser or the user. According to case law, a smoker is supposed to be aware of the harmful effects associated with the consumption of tobacco, as such information is common and widespread social knowledge. Therefore, smokers cannot expect the manufacturer to assume responsibility for the damages caused to their health by tobacco (French Supreme Court, 8 November 2007, considering that the smoker could not have remained unaware of the dangers of smoking).

Under the strict product liability system, according to Article 1386-4 of the French Civil Code, the safety that one is entitled to expect must be assessed taking into account the "*presentation of the product*". As a result, any absence of sufficient warning of the potential dangerous effects of a product, in the notice of information, may be regarded as a defect (e.g., French Supreme Court, 7 November 2006, when the notice of use of concrete did not draw enough attention to the harmful effects of the product when it comes into contact with the skin; French Supreme Court, 22 November 2007, when a product intended to reduce wrinkles did not contain warnings drawing the attention of the patient to the risks of inflammation). The fact that the consumer received the product from a "learned intermediary" (e.g., a doctor prescribing to the

patient the use of the product) does not exonerate the manufacturer from being held liable, as the fact that the intermediary did not inform the consumer as to the potential harmful effects of the product does not prevent the product itself from being classified as defective under Article 1386-4 of the French Civil Code.

3 Defences and Estoppel

3.1 What defences, if any, are available?

Where all the conditions for civil liability are fulfilled, the supplier may however be totally or partially exonerated from his liability.

Force majeure, the effect of which is to totally exonerate the supplier from his liability, is traditionally defined as an event which is unavoidable, unforeseeable and beyond the control of the defendant. Two important decisions from the French Supreme Court dated 14 April 2006 reasserted this definition. *Force majeure* can result from the fault of the victim or the act of a third party, as long as they present the above-mentioned characteristics. The supplier may invoke *force majeure* regardless of the type of claim brought against him. As regards contractual liability, parties may in their contract exclude some events from being considered as force majeure (e.g., strikes). Under the strict product liability regime, *force majeure* only applies when it results from the fault of the victim or the act of a third party (Article 1386-13 of the French Civil Code).

Strict product liability. In addition to the fault of the victim or the act of a third party being considered as *force majeure*, the supplier may also be completely exonerated from his liability pursuant to one of the five defences set out by Article 1386-11 of the French Civil Code. In particular, the producer may prove (i) that he did not place the product on the market, (ii) that the product was not intended to be sold or distributed by any means, or (iii) that the defect did not exist when the product was placed on the market. Two other applicable defences provided for by this Article are referred to in questions ***3.2*** and ***3.3*** below.

Contractual liability. In addition to *force majeure*, a supplier of a product may limit or eliminate the risk of a product liability claim being made against him based on contractual law by including a clause to that effect in the contract. However, such a clause will be ineffective if the injury caused to the user resulted from an intentional act or omission or the gross misconduct of the supplier or the "breach of essential duties". Moreover, clauses limiting the warranty against hidden defects only have effects where co-contractors are professionals of the "same specialty" (which is narrowly interpreted by case law). They are ineffective in contracts entered into between a professional and a consumer.

In chains of contracts, in which the buyer is entitled to bring an action against the supplier of its seller on the basis of a contractual claim, limitation of liability clauses in the contract between the manufacturer and the distributor are effective against the buyer, even though the buyer is not a party to that contract. Such a clause would be enforceable against a subsequent buyer even if the latter were a consumer, provided it is valid in the original contract. Indeed, case law considers that it would be unfair to deprive the manufacturer of the right to invoke the clauses it concluded with his contracting party. Conversely, the manufacturer who did not provide for any limitation of liability in his contract with the distributor is not entitled to rely on an exclusion of liability clause in the contract entered into between the distributor and the subsequent buyer.

Finally, in certain cases, the liability of a supplier may also be limited by the insertion of a liquidated damages clause ("*clause pénale*") in the contract pursuant to which the product was sold. Such a clause, which fixes the amount of damages which the supplier may be required to pay, will be enforceable unless the court determines that the amount of damages prescribed by this clause is patently excessive or insufficient; in such a case, the judge may award such damages as he deems necessary or appropriate to compensate the injured party (Article 1152 of the French Civil Code).

Tort liability. In addition to force majeure, the supplier may also be partially exonerated from his liability by proving that the damage is partially due to the fault of the victim or an act of a third party (see question ***3.6*** below).

3.2 Is there a state of the art/development risk defence? Is there a defence if the fault/defect in the product was not discoverable given the state of scientific and technical knowledge at the time of supply? If there is such a defence, is it for the claimant to prove that the fault/defect was discoverable or is it for the manufacturer to prove that it was not?

Article 1386-11 paragraph 4 of the French Civil Code does provide for a development risk defence. The producer (such as defined at Article 1386-6 of the French Civil Code, see question ***1.3***) will be exonerated from his liability under the statute on liability for defective products of 1998, if he proves that the "state of scientific and technical knowledge" at the time when the product was placed on the market was not such as to permit the discovery of the defect. However, the French Supreme Court ruled on 15 May 2007 that this cause of exoneration, being optional for the Member States as regards the 1985 EC Directive, may not be invoked for products put into circulation before the statute of 1998, implementing such a Directive, entered into force.

3.3 Is it a defence for the manufacturer to show that he complied with regulatory and/or statutory requirements relating to the development, manufacture, licensing, marketing and supply of the product?

Under tort law, the general obligation of caution and of due care applies, even if an act has been done while respecting the applicable statutes (French Supreme Court, 14 June 1972). Under the strict product liability regime, the principle is the same as the producer may be held liable even though he complied with professional rules or applicable standards, or if the product he manufactured is covered by a marketing authorisation (Article 1386-10 of the French Civil Code).

However, Article 1386-11, paragraph 5, of the French Civil Code does provide for a defence resulting from the compliance with specific regulatory or statutory requirements. In order to avoid liability, the producer will have to demonstrate that the defect of the product results from his compliance with requirements imposed by imperative statutes or regulations.

3.4 Can claimants re-litigate issues of fault, defect or the capability of a product to cause a certain type of damage, provided they arise in separate proceedings brought by a different claimant, or does some form of issue estoppel prevent this?

The principal effect of a judgment rendered by French Courts is to bar the suit from being brought again by the same parties on the same event when it has already been the subject of a previous legal

cause of action that has already been finally decided between the parties. The *res judicata* of a final judgment is aimed at avoiding the multiple judgments being handed down between the same parties. In civil law systems, the *res judicata* does not preclude the possibility of other plaintiffs of bringing an action on similar factual issues and legal causes of action against the same defendant. This is known as "*autorité relative de chose jugée*". However, the holding of a judgment only applies to the parties of the dispute but the judgment, as a whole, constitutes for any other third party a fact which may be used to support any type of argument (e.g., to prove that there is a consistent case law regarding a particular matter).

3.5 Can defendants claim that the fault/defect was due to the actions of a third party and seek a contribution or indemnity towards any damages payable to the claimant, either in the same proceedings or in subsequent proceedings? If it is possible to bring subsequent proceedings is there a time limit on commencing such proceedings?

The act of a third party does not exonerate the liable party from his or her liability towards the victim, but only allows him or her to recover from this third party the amount of damages which corresponds to this third party's direct contribution to the damage. A third party may therefore be forced to intervene in the same proceedings. The liable party sentenced for the whole damage may also later, by way of a subrogation action, obtain payment from the third party. In such a case (see question ***5.2*** below), the supplier who brings a claim against the producer after he has been declared liable has to do so no later than twelve months after the beginning of the main legal proceedings on the merits.

3.6 Can defendants allege that the claimant's actions caused or contributed towards the damage?

The fault of the victim which is not a case of *force majeure* could however constitute contributory negligence, when it has directly caused the injury, even partially. Such a fault may partially exonerate the defendant and thus lead to a shared liability between the defendant and the claimant. The percentage of the damage for which the defendant will be liable will depend to what extent the victim was himself or herself at fault for causing the damage.

4 Procedure

4.1 In the case of court proceedings is the trial by a judge or a jury?

Except in the *Cour d'assise* (which is the French criminal court having jurisdiction over felonies, i.e., according to Article 131-1 of the French Criminal Code, crimes punished by law with a prison sentence of at least ten years), there is no trial by jury in France. The Civil Courts are exclusively composed of professional judges. However, some first instance courts, such as commercial or labour courts, are composed of non-professional elected judges (judges who sit in the commercial courts are businessmen elected by their peers and those who sit in the labour courts are employers and employees representatives). All the Courts of Appeal, regardless of the nature of the dispute, as well as the French Supreme Court, are composed of professional judges.

4.2 Does the court have power to appoint technical specialists to sit with the judge and assess the evidence presented by the parties (i.e. expert assessors)?

Under French law, there are no expert assessors who assist the judges and sit with them in court. However, judges may personally check the facts in question and can be assisted by technicians.

4.3 Is there a specific group or class action procedure for multiple claims? If so, please outline this. Is the procedure 'opt-in' or 'opt-out'? Who can bring such claims e.g. individuals and/or groups? Are such claims commonly brought?

There is no group or class action procedure under French law. However, since 2005 its possible introduction in France has been discussed. Five years later, this project is still not yet definitive.

Although the first project was clearly of the "opt-in" system, the mechanism which will be adopted is apparently still being discussed. According to the latest available information, class actions in France are expected to have the following features:

- designated consumer associations could bring actions against companies before the civil courts in cases where consumers had suffered financial damage, as opposed to physical harm, because of a breach of a contractual obligation by the company;
- the procedure would include a speedy, structured and professional preliminary mediation phase;
- contingency fees will not be possible; and
- punitive damages will not be available.

4.4 Can claims be brought by a representative body on behalf of a number of claimants e.g. by a consumer association?

In consumer-related matters, environmental matters and financial market matters, two types of actions may be brought by a representative body. The first action is the collective interest action ("*action d'intérêt collectif*"), whereby an accredited association can defend a collective interest acknowledged by the law. The association acts to obtain compensation for the loss suffered by the group, but only the association benefits from any possible damages granted. A collective interest action is therefore very different from a class action since it is the collective interest which is defended and the collective loss which is compensated.

The second action is the joint representation action ("*action en représentation conjointe*"), which is a specific method of representation before the courts. It can be brought by an accredited association when "*several identified individuals have suffered individual losses which were caused by a fact caused by the same entity and which have a common origin*" and when such an accredited association has received at least two instructions for representation. The association acts to obtain compensation for the personal loss suffered by the victims who instructed it. The beneficiaries of the judgment are only the victims that instructed the association.

4.5 How long does it normally take to get to trial?

As in all legal systems, in France there are summary proceedings and proceedings on the merits. In summary proceedings, an order may be obtained in a few hours or days if the circumstances require such urgency. In general, an order in summary proceedings can be obtained within two to three months. As to proceedings on the

merits, different factors may influence its length, especially if expert proceedings need to be carried out before. Otherwise, the average length of proceedings is a year for a first instance decision and two more years in case of an appeal.

4.6 Can the court try preliminary issues, the result of which determine whether the remainder of the trial should proceed? If it can, do such issues relate only to matters of law or can they relate to issues of fact as well, and if there is trial by jury, by whom are preliminary issues decided?

In civil matters, preliminary issues are adjudicated by a specific judge, who is in charge of all the questions that may arise as regards the pre-trial phase of the procedure. This judge ("*Juge de la mise en état*") has jurisdiction to decide on any procedural plea (such as lack of jurisdiction, *lis pendens*, connexity and pleas of voidance) and any motion which aims to put an end to the proceedings pending before the court (such as time limitation in a suit). Such decisions may be appealed. However, there are no such judges before the Commercial Courts, which in general render a unique and global decision on the merits of the case once all submissions have been exchanged between the parties.

4.7 What appeal options are available?

Judgments of first instance may in principle be appealed before the Courts of Appeal within one month from the date of the service or notification of the decision (plus two months for the appellants domiciled abroad), unless the amount of the claim brought before the first judge(s) did not exceed 4,000 Euros, in which case the appeal may only be lodged with the French Supreme Court. The Court of Appeal rules once again on the facts and on the law. The Courts of Appeal are not bound by the decision of lower judges, whether on a question of law or of fact.

Decisions of Courts of Appeal can be appealed before the French Supreme Court ("*Cour de cassation*"), in principle, in civil matters, within two months as from the date of service of the decision. The *Cour de cassation*, which only reviews issues of law, either rejects the appeal or quashes the order and, generally, refers the case to a different Court of Appeal to be reviewed again.

4.8 Does the court appoint experts to assist it in considering technical issues and, if not, may the parties present expert evidence? Are there any restrictions on the nature or extent of that evidence?

In general, when the dispute regards a technical issue, the plaintiff would ask for the appointment of an expert in summary proceedings ("*en référé*"), i.e., before he or she launches any proceedings on the merits (see Article 145 of the French Code of Civil Procedure, in question ***4.10*** below). When proceedings on the merits have already been brought, the plaintiffs have to file any such request in proceedings on the merits. In such a case, an expert may be appointed at any time during the proceedings, subject to the discretionary power of the judge. At the end of the expert proceedings, the expert files his or her report before the Court. Such proceedings are frequent in France and almost systematic in product liability litigation. Moreover, parties are free to appoint their own private expert should they so wish. It is frequent that the parties appoint their own experts in order to be assisted by specialists at the expert meetings and to prepare accurate technical statements ("*dires*"), which are exchanged during the expert proceedings. Such a private expert may be chosen by a party from the official list, which generally gives such statements more authority.

4.9 Are factual or expert witnesses required to present themselves for pre-trial deposition and are witness statements/expert reports exchanged prior to trial?

In civil or commercial matters, experts are not required to present themselves for pre-trial deposition. Under the adversary principle, reports and statements must be filed in court and exchanged between all the parties prior to the trial hearing. Any document not properly exchanged would be disregarded by the Court.

4.10 What obligations to disclose documentary evidence arise either before court proceedings are commenced or as part of the pre-trial procedures?

There are no proceedings for discovery or disclosure of documents under French civil procedure. Indeed, as a general principle, the parties freely decide what factual evidence they want to file in support of their claims. However, Article 145 of the French Code of Civil Procedure allows a party to request from a judge, in specific circumstances and at the discretion of the judge, that he enjoins another party or a third party to file or disclose a specific element of proof which is in its possession. Before proceedings are commenced, a party may also request *ex parte* from a judge to be authorised to empower a bailiff to seek elements of proof on which the solution of the dispute may depend (e.g., seizure of the hard disk of a computer).

4.11 Are alternative methods of dispute resolution available e.g. mediation, arbitration?

Arbitration is an available alternative method of dispute resolution, provided that the dispute at stake is of an "arbitrable" nature. Parties may choose to resort to arbitration either in their initial contracts (in an arbitration clause) or after a dispute has arisen (in a compromise).

Arbitration is governed by rules set out in the French Code of Civil Procedure. Among those rules, the following apply to arbitration agreements:

- Both the arbitration clause and the compromise must, in order to be valid, designate the arbitrator or arbitrators, or provide for the terms and conditions for their appointment.
- The arbitration clause must also be in writing and included either in the main contract or in a document to which the main contract refers.
- The compromise must determine the subject-matter of the dispute.
- The compromise will become void where an arbitrator that it designates declines the assignment entrusted upon him.

Mediation is also possible (as long as no "unavailable" right is involved) and is available before and throughout the course of the judicial proceedings.

Mediation proceedings which take place in the course of judicial proceedings and imply the intervention of the judge is called judiciary mediation. It does not suspend the proceedings.

Extra-judicial resolution of disputes through mediation is authorised and even encouraged.

Finally, mediation proceedings can be "conventional" in the absence of any formal requirement and "institutional" when they are governed by specific rules.

5 Time Limits

5.1 Are there any time limits on bringing or issuing proceedings?

All civil and criminal actions related to product liability are subject to time limits. There are however notable differences between the various regimes.

5.2 If so, please explain what these are. Do they vary depending on whether the liability is fault based or strict? Does the age or condition of the claimant affect the calculation of any time limits and does the Court have a discretion to disapply time limits?

Time limits are governed by the law applicable to the merits of the action, as designated by French conflict of law rules. When time limits are set by a foreign law, the judge makes a sovereign interpretation of the content of the foreign law and of the applicable statute of limitations, as proved by the parties. When French law is applicable to the merits, time limits are compulsory for the judge, as the latter has no discretionary power as to whether to apply them.

Under the strict product liability regime provided for by French law, the producer may be found liable for ten years after the product was put on the market (Article 1386-16 of the French Civil Code). Within such a period of time, the victim's claim must be filed no later than three years after it has or should have reasonably known about the defect, the identity of the producer and the existence of the injury (Article 1386-17 of the French Civil Code). If the plaintiff is a supplier who has not manufactured the product but is sued by the injured party, he may bring an action against the manufacturer under the same rules applicable to the injured party, no later than one year after the suit against him is filed (Article 1386-7 of the French Civil Code). After ten years from the date on which the product was put on the market, a claim can still be filed on classic grounds of contract or tort liability, provided the time limitation for such actions has not expired.

A statute dated 17 June 2008 has completely modified the rules governing prescription of claims under French law. Actions brought under contractual liability (by which the party does not seek to obtain the nullity of the agreement but to obtain compensation) and under tort liability are barred after five years (Article 2224 of the French Civil Code and Article L.110-4 of the French Commercial Code), running from the date when the claimant is or should be aware of the facts accounting for the action, unless more restrictive provisions apply having regard to the category of contract. In particular, actions arising from bodily injury are barred after ten years, which runs from the moment when the act or omission results in injury, or when it is aggravated (Article 2226 of the French Civil Code).

This new statute came into force on 19 June 2008. Naturally, as for actions brought before this date, claims are dealt with and judged according to the previous law. However, the new provisions extending the duration of a limitation period apply to cases where the limitation period was still running on 19 June 2008: the time that has already lapsed is then taken into account. When the new provisions prescribe a limitation period which is shorter, this period applies and runs as of 19 June 2008 (unless the new limitation period ends after the one provided for under the old regime, in which case the previous limitation period applies).

Under the warranty against hidden defects regime, pursuant to which the seller is liable for hidden defects of the object sold as soon as these defects render it unfit for its intended purpose, the injured party must bring the action alleging a breach of the seller's warranty within two years of the discovery of the defect (Articles 1641 and 1648 of the French Civil Code). This fixed time-bar replaces the previous "short delay" requirement which was interpreted by case law as being no more than one year. Contracts entered into before the 1999/44 Directive was implemented into French law (i.e. before 17 February 2005) are still subject to the "short delay" requirement.

The differences that exist between the systems of liability, regarding the applicable time limits, are often explained by the capacity of the party which is supposed to bring the action and the degree of protection that the legislator has intended to grant to it. The age or condition of a party, where provided by law, may in addition suspend the application of the statutes of limitations. In particular, Article 2235 of the French Civil Code provides, regarding persons aged under 18 ("*mineurs*") and persons over 18 placed under the highest degree of Court protection that exists in France ("*tutelle*"), that time only starts running against them once they become able, or start being able again, to bring legal actions on their own behalf. Indeed, the time that elapsed before they reached the legal age to bring an action in court or during the effects of the protective measure is not taken into account regarding the time limit.

Under Article 2254 of the French Civil Code, the parties may agree to reduce or increase time limits. The latter cannot however be reduced to less than one year or extended to more than ten years. The parties may also agree to add causes of suspension or interruption to statutes of limitations. Article 2254 is nonetheless not applicable to consumer contracts.

5.3 To what extent, if at all, do issues of concealment or fraud affect the running of any time limit?

Except where the law provides for an interruption or a suspension of the limitation period, there is in principle no relief for a claimant who is time-barred.

However, case law considers that when the running of a time limit results from the behaviour of the defendant (i.e., the time limit being exceeded due to the defendant's behaviour), the latter may not invoke the limitation period (French Supreme Court, 28 October 1991).

6 Remedies

6.1 What remedies are available e.g. monetary compensation, injunctive/declaratory relief?

Monetary compensation as well as injunctions to do, injunctions to cease to do and injunctions to pay are available remedies. As an action is admissible only if the claimant has a legitimate and present interest to it (Article 31 of the French Code of Civil Procedure), declaratory relief is not available in principle. There are however some rare exceptions especially in the field of private international law and in matters of nationality.

6.2 What types of damage are recoverable e.g. damage to the product itself, bodily injury, mental damage, damage to property?

French law recognises two types of damage: physical damage ("*dommage matériel*"); and non-physical damage ("*dommage moral*"). Physical damage is that which is caused to the person (e.g., bodily injury) or property of the injured person.

Non-physical damage includes the pain and suffering of the injured

party, the loss of enjoyment, the aesthetic injuries, and the damage caused to the honour or emotions of the injured party (e.g., slander or the mental suffering resulting from the death of a spouse). By nine decisions dated 12 September 2008, the Paris Court of Appeal ruled that the damage resulting from the fear to bear a potentially defective cardiac catheter could be recovered. The potential defect was signalled by the manufacturer to the doctors so that they could follow up the catheter holders. By a decision dated 4 February 2009, the Versailles Court of Appeal ruled that the neighbours of a base station sustained a "legitimate fear" and should be compensated even if no scientific research has been able to prove the impact of exposure to electromagnetic fields on one's health.

The loss of an opportunity to obtain a future benefit may also give rise to damages if the court finds that the injured party had a good chance of obtaining such a benefit.

Under the strict product liability system, pursuant to Article 1386-2 of the French Civil Code, the recoverable damages are the damages caused by the defective product to the victim itself (i.e., death or personal injury) and to goods (other than the defective product itself), irrespective of whether the said goods are used for private or professional purposes. Ruling on a preliminary question referred to by the French Supreme Court, the European Court of Justice held on 4 June 2009 that the 1985 EC Directive does not govern damage caused to goods intended for professional use and employed for that purposes. The European Court of Justice therefore ruled that the French legislation extending the strict product liability regime to goods used for professional purposes was not contrary to the 1985 EC Directive. Also, in line with this Directive, as regards damages to goods, France has set a 500 Euros threshold for the applicability of this regime.

Whereas, under the 1985 EC Directive, the Member States could set a ceiling on the producer's liability for bodily damage, France has chosen not to do so.

6.3 Can damages be recovered in respect of the cost of medical monitoring (e.g. covering the cost of investigations or tests) in circumstances where the product has not yet malfunctioned and caused injury, but it may do so in future?

Only the loss directly caused by the product and which the injured party has actually suffered in the past or which the victim is certain to suffer in the future may give rise to an award of damages. Therefore, the possible future damage may not be compensated (French Supreme Court, 19 December 2006). However the fear and the anxiety provoked by the threat of the defect of a product and its associated health risks constitute a recoverable moral injury (same decision).

As for medical monitoring expenses incurred in order to control the evolution of the risks of illness or injury associated with the defective product (e.g., a defective cardiac implant), or as regards the costs of a surgical operation preventing the risk created by the defective product, they are not recoverable. In some cases, statutes provide for the indemnification of the medical monitoring (e.g., decrees issued in respect of the "*post-professional*" medical monitoring for workers exposed to asbestos).

6.4 Are punitive damages recoverable? If so, are there any restrictions?

In the French system of civil liability, the damages granted to the injured party are supposed to compensate the injury, not to punish the liable party. Their amount must correspond to the exact extent of injury. Therefore, there are no punitive damages under French civil law.

In a contract, the parties may stipulate a liquidated damages clause ("*clause pénale*"), which may provide for an amount of damages which exceeds or limits the amount of damages resulting from the sole breach of a contractual duty. The judge has a discretionary power to reduce or increase the amount fixed by such clauses, if this amount is patently excessive or insufficient (Article 1152 of the French Civil Code, see question ***3.1**, Contractual liability*).

6.5 Is there a maximum limit on the damages recoverable from one manufacturer e.g. for a series of claims arising from one incident or accident?

There are no maximum limits for the total amount that a liable party may be required to pay to injured parties. The only limit to the amount that may be due in respect of claims brought on the grounds of a same accident or incident results from the principle that the damages must correspond to the actual extent of the injury.

6.6 Do special rules apply to the settlement of claims/proceedings e.g. is court approval required for the settlement of group/class actions, or claims by infants, or otherwise?

Court approval is not required for the settlement to be applied by the parties. Nevertheless, a party may request the President of the Civil Court to enforce the settlement should the other party refuse to abide by it (Article 1441-4 of the French Code of Civil Procedure).

6.7 Can Government authorities concerned with health and social security matters claim from any damages awarded or settlements paid to the Claimant without admission of liability reimbursement of treatment costs, unemployment benefits or other costs paid by the authorities to the Claimant in respect of the injury allegedly caused by the product. If so, who has responsibility for the repayment of such sums?

A person claiming compensation before a court for damages allegedly resulting from an injury caused by a product has the obligation to summon the relevant social security fund when he or she launches his or her action against the manufacturer/seller. If the claimant fails to comply with this obligation, the social security fund can request the decision to be declared void within two years following the date on which the decision was rendered. Therefore, the social security fund usually is party to the proceedings. In this way, it is able to request the manufacturer/seller to repay the expenses generated by the injury (including unemployment benefits and treatment costs). These sums are deducted from the damages to be paid to the claimant, but the deduction is made on the specific damages awarded for each head of damage identified. There can be no deduction from the damages awarded to compensate personal harm suffered by the claimant, such as emotional distress, unless the social security fund can prove that some amounts paid to the claimant related to such type of damage. As a result of this calculation, the manufacturer/seller who is found liable will pay part of the damages to the claimant and the other part to the social security fund.

There is no obligation to inform the authorities in the context of a settlement but the social security fund does retain the right to bring a claim against the manufacturer/seller for the reimbursement of its expenses.

7 Costs / Funding

7.1 Can the successful party recover: (a) court fees or other incidental expenses; (b) their own legal costs of bringing the proceedings, from the losing party?

One must here distinguish between the court fees, the other incidental expenses, i.e. the procedural costs which are strictly necessary pursuing the suit ("*dépens*"), and the other expenses incurred by a party in respect to the dispute.

(a) Pursuant to Article 696 of the French Code of Civil Procedure, the successful party may be able to recover all the procedural costs ("*dépens*") listed at Article 695 of the French Code of Civil Procedure (e.g., the necessary translation costs, the court appointed experts' fees, the witnesses' expenses and the counsels' fees (when their intervention is required by law, such as, up until January 2012, the "*Avoués*" who represent the parties before the Court of Appeal, and only up to the amount fixed by Decree)).

(b) Any other legal costs incurred by a party, such as the legal fees when they are freely determined between the lawyer and his or her client, fall under the scope of Article 700 of the French Code of Civil Procedure, which states that "*the judge shall order the party bearing the procedural costs, or failing that, the losing party, to pay to the other the sum of money that the judge shall determine and which corresponds to the costs incurred which are not included in the procedural costs. The judge shall take into account equity or the economic position of the sentenced party. He can, even automatically, giving reasons based on similar considerations, decide that no such order is needed*". In this respect, the recoverable amounts will be determined on a case-by-case basis. However, the amounts that are generally granted rarely exceed 10,000 to 20,000 Euros.

7.2 Is public funding e.g. legal aid, available?

Legal aid is available in France and consists in a financial aid (total or partial) in proceedings before State courts (direct payment by the State to the appointed counsel or bailiff, exoneration of certain taxes, etc.).

7.3 If so, are there any restrictions on the availability of public funding?

Jurisdictional aid is only available for proceedings before French national courts. It is generally granted to individuals who can prove that their income is too low to afford access to justice. It is not required to be a French citizen, as legal aid may be granted to any national of a Member State of the EU, or whose country has entered a Convention with France or whose permanent residence is in France. However, this condition of residence does not apply to people under the age of 18, or if criminal charges have been brought against them. In 2010, full legal aid may be available for the persons whose incomes are below 915 Euros per month, and partial legal aid for those with incomes between 916 and 1,372 Euros.

7.4 Is funding allowed through conditional or contingency fees and, if so, on what conditions?

Contingency fee arrangements ("*pacte de quota litis*") are forbidden in France. However, since 1991, it is possible to enter into, in writing, a fee agreement with the client stipulating an increase of fees in the event of a particularly positive result and the calculation of which is set out in advance.

7.5 Is third party funding of claims permitted and, if so, on what basis may funding be provided?

Third party funding is not customary at all in France. Lawyers should actually refuse to be paid by a third party when this third party is breaching the law by paying the fees. For instance, the use of company funds to pay the legal fees of an employee for his/her defence in a private case should not be accepted as it constitutes fraudulent use of corporate property.

8 Updates

8.1 Please provide, in no more than 300 words, a summary of any new cases, trends and developments in Product Liability Law in France.

As far as civil law is concerned, pharmaceuticals are giving rise to new trends in case law. In several judgments handed down on 22 May 2008, the French Supreme Court offered to plaintiffs the possibility to prove the defect and the causal link by way of presumptions, in cases where scientific causation between the product and the alleged adverse effect is not established. On 9 July 2009, for the first time, the Supreme Court held a manufacturer liable on this basis even though no connection has ever been proven between the product in question (hepatitis B vaccine) and the illness at stake (multiple sclerosis). In the same way, a decision given on 24 September 2009 imposed on producers a burden of proof which is practically impossible to fulfil: proving which of two similar pharmaceuticals a plaintiff was prescribed decades ago.

As far as criminal law is concerned, on 14 January 2009, the Paris Criminal Court ruled in favour of defendants who had been charged with manslaughter, unintentional bodily injury and aggravated deceit in the case known as "the growth hormones matter". This is again a major public health matter, dismissed at trial level. However, the Public Prosecutor has lodged an appeal in respect of three of the seven initial defendants.

Finally, the European Court of Justice handed down a decision on 4 June 2009 holding that Article 1386-2 of the French Civil Code, which extends the strict product liability regime to damaged goods intended for professional use, is compliant with the Product liability Directive (85/374/EEC). The Directive does not apply to such goods and there was therefore a debate in the past as to whether French legislation was valid in this respect.

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Thomas is a partner in the Hogan Lovells' Paris office where he is in charge of the dispute resolution practice. He specialises in litigation, with an emphasis on product liability litigation and product safety.

Thomas regularly handles cross-border and multi-party disputes and has gained broad experience with respect to emergency proceedings (*ex parte* applications and summary proceedings).

He is regularly involved in product safety matters including advising on the effect of regulations, assisting with product recalls, responding to the demands of regulatory authorities and representing clients in civil, commercial and criminal proceedings.

Thomas has broad experience in industrial product liability matters on behalf of, for example, manufacturers of household appliances, as well as industrial risk litigation (industrial accidents or environmental claims). He regularly appears on behalf of clients in product liability matters concerning the automotive industry, pharmaceutical products, telecommunications and the food and drink industry. He also has significant experience working on the side of the defence in aviation matters and tobacco-related litigation.

Thomas is a member of the class actions working group of the *Mouvement des Entreprises de France* ("MEDEF"). He is also an active member of the International Association of Defense Counsel ("IADC") of which he is the International Vice-Chair of the Product Liability Committee. He contributes regularly to the Lovells European Product Liability Review and speaks frequently at product liability and product safety seminars.

Thomas was admitted to the Paris Bar in 1992. He read law at the Universities of Paris II (Assas) and Paris I (Panthéon-Sorbonne), and is a graduate of the Paris Institut d'Etudes Politiques (Sciences-Po). He became a litigation partner with Siméon & Associés in 1998, before joining Hogan Lovells in 2001.