



The Distributor's best defence: identifying the manufacturer

Judgment of the Supreme Court (Civil Chamber) of 25 February 2026

Background

The judgment concerns a product liability claim brought against the distributor of a hip prosthesis alleged to be defective.

Prior to the initiation of the court case, the defendant company stated that it acted solely as a distributor but failed to identify either the manufacturer or the supplier.

In the first instance, and in the absence of such identification, the Court upheld the claim and held the distributor liable.

On appeal, the Court of Appeals overturned the judgment, reasoning that the claimant could have identified the manufacturer from the documentation provided and that, accordingly, the action should not have been brought against the distributor.

Ruling of the Supreme Court

The Supreme Court upholds the claimant's appeal and overturns the judgment of the Court of Appeals.

While reaffirming the general principle that distributors should not be sued where the manufacturer can be identified, the Supreme Court finds that, in this case, the manufacturer was not readily identifiable. The documentation referred to multiple entities, thereby creating uncertainty.

The Supreme Court rejects the argument that the burden of clarifying the manufacturer's identity may be shifted to the consumer. It holds that, pursuant to Article 138.2 of the Spanish Law on Consumers and Users Protection, a distributor may be held liable as if it were the manufacturer if, upon request, fails to identify either the manufacturer or the supplier diligently.

Accordingly, it is not sufficient for a distributor merely to deny being the manufacturer; rather, it is subject to a positive obligation to provide the relevant information. Failure to comply with this obligation within the prescribed time frame results in the distributor being treated as the manufacturer for the purposes of product liability.