



**Civil No. 14-1507 (GAG)**

1 found in a shrimp, even if said food product (and its “defect”) are not a result of  
2 manufacturing or fabrication process?

3 If the previous question is answered in the affirmative, would it make a difference  
4 if the “defect” of the food product is readily discoverable scientifically or otherwise?

5 (Docket No. 198.) In response, the Puerto Rico Supreme Court accepted this Court’s request of  
6 certification. (Docket No. 271).<sup>1</sup>

7 **I. Certification to the Puerto Rico Supreme Court**

8 “[C]ertification offers a federalism benefit to federal courts. Insofar as it allows a state court  
9 to determine pertinent issues of state law, certification spares a federal court the difficult chore of  
10 determining state law.” EXAMINING THE POWER OF FEDERAL COURTS TO CERTIFY QUESTIONS OF  
11 STATE LAW, 88 Cornell L. Rev. 1672, 1697 (2003).

12 The decision to certify questions of state law is discretionary. “Absent controlling state  
13 court precedent, a federal court . . . may certify a state law issue to the state’s highest court, or  
14 undertake its prediction ‘when the course [the] state courts would take is reasonably clear.’” Van  
15 Haaren v. State Farm Mutual Automobile Insurance Co., 989 F.2d 1, 3 (1st Cir. 1993) (citing Porter  
16 v. Nutter, 913 F.2d 37, 41 n.4 (1st Cir. 1990); see also Collazo-Santiago v. Toyota Motor Corp.,  
17 937 F. Supp. 134, 138 (D.P.R. 1996) aff’d, 149 F.3d 23 (1st Cir. 1998). “[I]f the existing case law  
18 does not provide sufficient guidance to allow [the court] reasonably to predict how the state’s courts  
19 would resolve the question, the prudent course is to certify the question to that court better suited  
20 to address the issue.” Pagan-Colon v. Walgreen of San Patricio, Inc., 697 F.3d 1, 18 (1st Cir. 2012);

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22 <sup>1</sup> While the question concerning the applicability of the strict liability doctrine was pending before the  
23 PRSC, the District Court denied Defendants’ second motion to dismiss as to the rest of Plaintiffs’ claims. “As  
24 pleaded in Plaintiff’s Second Amended Complaint, the court finds that under the applicable pleading standard of  
Rule 12(b)(6) explained above, Plaintiffs set forth enough facts to sufficiently state a claim upon which relief can  
be granted, under Puerto Rico general tort claims.” (Docket No. 208).

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1 see also Watchtower Bible Tract Socy of New York, Inc. v. Municipality of Ponce, 197 F. Supp.  
2 3d 340, 344-45 (D.P.R. 2016).

3 A. Principles of Comity and Federalism

4 The idea of comity between local and federal courts is not a trifling concept. Comity is  
5 defined as the practice among political entities (as nations, states, or courts of different  
6 jurisdictions), involving especially mutual recognition of legislative, executive, and judicial acts.  
7 BLACK’S LAW DICTIONARY 303-04 (9th ed. 2009). Comity is “neither a matter of absolute  
8 obligation, on the one hand, nor a mere courtesy and good will, upon the other.” Hilton v. Guyot,  
9 159 U.S. 113, 163-64 (1895)). The mutual respect between state and federal courts affords the  
10 participants a timely resolution of matters and a sense of finality. See Martínez v. Ryan, 566 U.S.  
11 1, 10 (2012). Similarly, federalism simply describes the “legal relationship and distribution of  
12 power between” the federal and state governments, but recent jurisprudence seems to expand the  
13 working definition of federalism to incorporate “cooperative federalism.”<sup>2</sup> BLACK’S LAW  
14 DICTIONARY 687 (9th ed. 2009); see Cullen v. Pinholster, 563 U.S. 170, 185 (2011) (explaining  
15 virtues of “comity, finality, and federalism” in the habeas corpus context). Together, these  
16 principles guide the court when tasked to interpret novel or unsettled areas of local law.

17 Rather than boldly asserting itself as the ultimate authority of local law, a federal court  
18 should afford the local judiciary the opportunity to be the first to rule on the legality or  
19 constitutionality of local law. See Globe Newspaper Co. v. Beacon Hill Architectural Comm’n,  
20 40 F.3d 18, 24 (1st Cir. 1994). Courts can achieve this goal by invoking abstention doctrines or by  
21 certification. See Sullivan v. City of Augusta, 511 F.3d 16, 44 (1st Cir. 2007). The certification  
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23 <sup>2</sup> Cooperative federalism is defined as the distribution of power between the federal government and the  
24 states in which each recognizes the powers of the other while jointly engaging in certain governmental functions.  
BLACK’S LAW DICTIONARY 687 (9th ed. 2009).

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1 mechanism is widely applauded as increasing the likelihood of a federal court answering the  
2 substantive question correctly and demonstrating a federal court’s respect for the state court. See  
3 Rebecca Hollander-Blumoff, The Psychology of Procedural Justice in the Federal Courts, 63  
4 HASTINGS L.J. 127, 169 (2011) (stating benefits of certification are “getting the legal question  
5 substantively correct[,] . . . not creating contrasting precedent [between the state and federal courts,  
6 and] . . . signal[ing] respect and deference to the state court system’s capabilities to determine its  
7 own state law”).

8 **II. Gonzalez Caban v. JR Seafood, 2017 TSPR 167**

9 On December 1, 2017, the Puerto Rico Supreme Court answered in the negative this Court’s  
10 certified question of law, holding that a shrimp contaminated with saxitoxin did not trigger the  
11 application of the strict liability doctrine. Because the allegedly contaminated shrimp was not  
12 manufactured, that is, that the product’s became contaminated without human intervention, the  
13 Puerto Rico Supreme Court reasoned that the case at bar falls outside of the scope of the strict  
14 liability doctrine’s protection

15 Given the Puerto Rico Supreme Court’s answer, Plaintiffs’ strict liability claim against  
16 Defendants, as sellers, distributors and/or packagers of the defective product —the allegedly  
17 contaminated shrimp— and their respective insurance companies, cannot proceed.

18 Consequently, the Court **GRANTS** Defendant’s motion at Docket No. 60 and **DISMISSES**  
19 Plaintiffs’ strict liability claims. Plaintiffs’ case continues as to the remaining claims.

20 **SO ORDERED.**

21 In San Juan, Puerto Rico this 16th day of January, 2018.

22 *s/ Gustavo A. Gelpí*  
23 GUSTAVO A. GELPI  
24 United States District Judge