

**PATRICIA ADELMANN-  
CHESTER, ET AL.**

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**NO. 2008-CA-0770**

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**COURT OF APPEAL**

**VERSUS**

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**FOURTH CIRCUIT**

**JOHN N. KENT, D.D.S.,  
LOUISIANA STATE  
UNIVERSITY SCHOOL OF  
DENTISTRY AND FACULTY  
DENTAL PRACTICE, ET AL.**

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**STATE OF LOUISIANA**

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**BELSOME, J. DISSENTS WITH REASONS.**

Summary judgment is improper where there are one or more issues of material fact. See La. Code Civ. P. art. 966(c). Thus, whether Dr. Kent is liable under the LPLA as a manufacturer is a factual question and not appropriate for summary judgment. A “manufacturer” is defined under La. R.S. 9:2800.53(1) as “a person or entity who is in the business of manufacturing a product for placement into trade or commerce.” La. R.S. 9:2800.53(1). “Manufacturing a product” is defined as “producing, making, fabricating, constructing, **designing**, remanufacturing, reconditioning, **or** refurbishing a product.” *Id.* (emphasis added); *See also Cook v. United Container Machinery Co.*, 98-120 (La.App. 5 Cir. 5/27/98), 712 So.2d 307 (finding that the extent of an employee’s role in designing printer slotter, determinative of whether employer could be deemed a manufacturer under the LPLA, constituted issue of material fact precluding summary judgment). It is not disputed that Dr. Kent designed the shape of the glenoid fossa in the VK-I and VK-II, and, as the majority notes, obtained several design patents regarding the shape of the implants and drafted package inserts for some Vitek devices. I respectfully dissent.