

## CASE TRANSLATION: FRANCE

CASE CITATION:

**Appeal reference n° : 07-12545 (Not published in the Judgments Bulletin)**

NAME AND LEVEL OF COURT:

**Court of Cassation, 1st Civil Chamber**

DATE OF DECISION:

**Public hearing of 25 June 2008**

PRESIDING JUDGE: **M. Bargue**

LAWYERS:

**Rocheteau and Uzan-Sarano law firms, solicitors**

*Digital evidence; bank transfers written in identical terms; commencement of proof in writing*

### French Republic

In the name of the French people

The Court of Cassation, 1st Civil Chamber, has rendered the following judgment:

On the first part of the sole ground of appeal,

Having regard to articles 1341 and 1347 of the French Civil Code,

Given that Mr. X..., the caretaker of a building, instituted proceedings against Mrs. Y..., for payment of a sum of 6,800 Euros as expenses for taking care of her dog from November 2000 to February 2004;

Given that to dismiss Mr. X...'s application for the payment of the sum claimed, the judgment under appeal notes that there is no commencement of proof in writing from Mrs Y... that proves that a contract was entered into in front of a witness;

In so ruling after having established that Mrs. Y... made three bank transfers of 200 euros each from her account to Mr. X... on September 15th 2003, October 15th 2003, and January 15th 2004 and said transfers read thus: 'Y...Eve—Dog care' and 'Y...Eve—Dog care' and 'Y...Eve—Rocco care'; and as it cannot be seriously challenged that said transfers concerned the dog, the court of appeal did not follow the above-mentioned articles;

For these reasons and with no need to consider the other grounds of appeal:

**SETS ASIDE AND ANNULS** all provisions of the judgment handed down between the parties on 22nd June 2006, restore the parties to their prejudgment positions and returns the case before the Paris Court of Appeal with a differently composed bench;

Orders Mrs Y... to pay costs;

In view of article 700 of the Code of Civil Procedure, orders Mrs. Y... to pay Mr. X... the sum of 1,000 Euros;

Rules that the deputy Prosecutor to the Court of Cassation, shall take care of forwarding this judgment for transcription in the margin or for attachment to the cancelled judgment;

So ordered by the Court of Cassation, 1st Civil Chamber, and pronounced by the presiding judge at his public hearing on 25 June 2008.

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*Philippe Bazin is the correspondent for France*