

Louisiana Law of Obligations

Louisiana Law of Obligations

A Methodological & Comparative Perspective

Cases, Texts and Materials

SECOND EDITION

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Preface

This Second Edition of *Louisiana Law of Obligations: Cases, Texts and Materials* is as innovative as the first edition of 2013 but more comprehensive as a result of the experience acquired over the last ten years.

To Part One on “Nature, Division & Kinds of Obligations” and Part Two on “Conventional Obligations,” we have added a Part Three on “Quasi-Contracts.”

We have structured this Second Edition around the single most original feature of a civil law system, exemplified particularly, but not exclusively, by a Civil Code. This feature is that of a hierarchy in the sources of law that establishes a ranking among those sources which are “legislation,” “jurisprudence or judicial decisions,” and “doctrine or legal scholarly writings.” In the Louisiana Civil Code, this feature finds its *raison d’être* in the very first articles of the Code in the Preliminary Title and in Chapter 1 on General Principles.¹

We have built the Chapters in this coursebook to reflect this foundational feature of the ranking of the sources of law. At the beginning of every Chapter we have presented the most relevant Code articles as the “primary” source of law; the articles are followed by the two “secondary” sources of law which are the jurisprudence or judicial opinions and doctrine or legal scholarly writings.² With respect to the Code articles in particular, we recommend that a reader of this coursebook have available a copy of the Louisiana Civil Code to better understand, and appreciate, the intricate symbiosis and connections that exist between the Books, Titles, Chapters and Articles in that Code, and, to a large extent, in other Civil Codes of civil law jurisdictions such as France and Québec. The “secondary” sources, jurisprudence and doctrine, that follow the Code articles will help readers understand how the methods of “Interpretation of Laws” can be used by the courts and doctrine to “go through the Civil Code and beyond the Civil Code.”

Following each case we have offered a series of questions, some designed to direct students to the significant points of the court’s analysis, particularly as regards Code articles; other questions are designed to deepen the students’ understanding of civil law methodology, particularly the many principles and techniques of interpretation

1. See art. 1 to 4.

2. For more on Sources of Law, see *Code Napoléon or Code Portalis*, 63 TUL. L. REV. 762 (1969); and *Deciphering a Civil Code: Sources of Law and Methods of Interpretation* (2015) (works cited).

of written sources of law with a focus on Code articles.³ Questions beginning with paragraph numbers refer to words or concepts within those paragraph, while questions without paragraph numbers refer to the case as a whole.

Because the Louisiana civil law system is exposed to the influence of the common law system and naturally borrows from other civil law systems, we have included in this coursebook pertinent articles of other Civil Codes, extensive excerpts of doctrine/legal scholarship, many of which are very recent and that we have translated for the benefit of some readers. We have also reprinted several already existing translations. One will also find many cross references to common law legal scholarship, English and American, as well as to the U.C.C. and the Restatement of Contracts.

The result, we hope, is a work that provides students, and the legal community, with a comprehensive insight into the Louisiana Law of Obligations, Conventional Obligations and Quasi-Contracts. This work is also meant to open students' minds towards exploring and inquiring beyond the borders of their State, Louisiana first and foremost, to find in other legal systems possible answers to issues that are not "exclusively" raised and debated within the confines of their own legal system.

A. A. L.

N. A. D.

3. On methods of interpretation, see *Deciphering a Civil Code: Sources of Law and Methods of Interpretation* (2015) (works cited).

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