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Paris Bar (2003)
Partner at Racine since
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Professor of Law since
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BANKING - FINANCE - MERGERS & ACQUISITIONS

Antoine Hontebeyrie, Associate Professor at the University of Paris-Saclay, has been a partner at Cabinet Racine since 2008. He teaches contract law, the general system of obligations, securities law, insurance law and corporate law.

He was a member of the working group "Security interests in securities" set up by the Ministry of Justice in the context of the reform of the law on security interests in 2021.

He is also a professor at HEAD (Hautes Etudes Appliquées du Droit), where he teaches seminars on the law of obligations and the law of securities. He is the author of numerous publications on private law, in particular on the recent reforms of civil business law (obligations, securities), and he provides advice and litigation services to the firm.

Antoine is a member of the Paris Bar since 2003 and joined Racine as Partner in 2008.

AREAS OF EXPERTISE

- Banking and finance
- Corporate law

CAREER PRIOR TO JOINING RACINE

- Professor at the University of Paris-Saclay/Evry Val d'Essonne since 2011
- Professor at the Ecole des Hautes Etudes Appliquées du Droit (HEAD) since 2014
- Professor of Law (professeur agrégé), Université d'Angers (2007-2011)
- Associate professor, Université de Paris I Panthéon-Sorbonne (2005-2007)

EDUCATION

- Agrégation of law faculties (2007)
- Doctorate in law ("The basis of joint and several liability in French private law", éd. Economica, 2004 préf. L. Aynès)

PUBLICATIONS

Thesis and collective projects

- "The basis of joint and several liability in French private law (thesis), Economica, 2004, préf. L. Aynès
- Dalloz civil law repertory, v° «Extinctive prescription »
- Lamy securities law, « Passive solidarity » study

Articles

- The issue of retroactivity and restitutions *in* Lapse of the contract - An alternative to force majeure, unforeseeability and other mechanisms for early termination of the contract, Rev. des contrats 2023/2, p.133
- Sale, defects, eviction and transfer of charges, *in* Reform of special contract law, Journ. spéc. des sociétés 2023, p. 7
- Loans, scheduling, definitions, obligations, retention, *in* Reform of special contract law, Journ. spéc. des sociétés 2023, p. 23
- The trust, now an effective instrument for guaranteeing investors in SPACs, RDBF 2022, nov-dec. 2022, n°50

- Saving the obligation in solidum, D. 2022, p. 1563
- The new joint and several guarantee, Journ. spéc. des sociétés, January 2022, p. 6
- New rules on the duration of the guarantee, Journ. spéc. des sociétés, January 2022, p. 11
- New rules for pledging receivables, Journ. spéc. des sociétés, January 2022, p. 24
- The new common law of pledges in the reform of security interests, JCP N 2021, 1331
- The dissolution of a legal entity that is a creditor, principal debtor or guarantor *in* The reform of the law of suretyship from a business perspective, RLDA suppl. nov. 2021, p. 11
- A few observations on the concept of safety, *in* Changes in law, Mixes in honour of Professor François Colly, 2021, éd. Memory of law, p. 229
- A new stage in the reform of security interests, Rev. Banque, April 2021, p. 64
- Legal recognition of the assignment of sums of money as security, (with B. Evva), Rev. Banque 2021, p. 68
- Some suggestions for the *modernised version* of Légifrance, D. 2021, p. 358
- The commission, the prête-nom and third parties (on the preliminary draft reform of the law of special contracts circulated by the Association Henri Capitant), Rev. des contrats 2020, p. 209
- The general system of obligations and the role of the will in a juridical act, Mixes in honour of Professor Laurent Aynès, LGDJ 2019, p. 297
- Pledges and collateral, *in* What kind of reform for security law?, Dalloz 2019, p. 21
- Pre-contractual period, promises and pre-contract (with Hélène Hoepffner), *in* Private law contracts and administrative contracts, Dialogues on comparative internal law, Lextenso, Grands Colloques series, 2019
- Delegation *in* Transfer of obligations under French and Belgian law, Comparative law approaches, Larcier 2019, dir. P. Jourdain et P. Wéry
- Test bench for debt assumption, *in* Bond transactions: what to choose?, Rev. des contrats 2018, p. 314
- Refunds, *in* Innovations in contract law reform, Varenne University Institute, Colloques and Essays collection 2017
- Brief comments on the possible future article 1304-4 of the Civil Code, D. 2017, p. 2211
- Contract law chronicle, New and old law: turning points and dialogue (with M. Julienne), Law and heritage, oct. 2017, p.54
- Some observations on the temporal delimitation of the assignment of contract, Rev. des contrats 2017, p. 378
- 1171 against L. 442-6, I, 2° : prescriptions in the balance, D. 2016, p. 2180
- Proposed amendment to article 1304-4: the condition of renunciation, Rev. des contrats 2017/1, p. 197
- Proposed amendment to article 1347-6: set-off, surety and joint and several debtors, Rev. des contrats 2017/1, p. 208
- Some effects of the reform of the law of obligations on surety bonds, Journal des sociétés, September 2016, p. 40

- Asset and liability warranties, *in* Guarantees in company structures, Practical actions and corporate engineering 2016, p. 148
- Some implications of the reform of the law of obligations for civil liability, Law and heritage June 2016, p. 54
- Compensation, *in* The new general system of obligations, Dalloz 2016, dir. V. Forti et L. Andreu, p. 151
- Non-possessory pledges and immovable property by destination *in* 2006-2016 : assessment of the reform of security interests, JCP N 2016, 1108
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- Admissibility of evidence: a clear and concise system that could be better organised, Law and heritage, sept. 2015, p. 49
- Introductory remarks, Antoine Hontebeyrie, p. 34 *in* General system of obligations: the essentials of a substantial reform, Law and heritage juill.-août 2015, p. 33
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- What kind of passive solidarity in tomorrow's Civil Code? D 2015, p. 89
- The effects of the contract in the preliminary draft reform, *in* The reform of contract law, Company newspaper, avril 2014, p. 33
- General system of obligations and security law, RLDC 2014, p. 77 (seminar publication)
- The layman and the general system of obligations *in* The professional and the layman, special edition (seminar publication)
- Loss or theft of a bankcard: what evidential regime? Consideration of the legal nature of the system provided for in Article L. 132-3 of the Monetary and Financial Code, D 2009, chr. p. 1492
- Legal remedies available to disappointed transferees (avec D. Robine), *in* Transferring a business through the sale of shares, Joun. spéc. des sociétés, 2008, p. 42
- A case of enrichment in delictual civil liability: on the subject of obsolescence in the assessment of damage to property, D 2007, chr., p. 675
- Reforming the Civil Code with regard to joint and several obligations (with L. Aynès), D 2006, chr., p. 328
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Cases law notes

- Has the adage *Contra non valentem*... survived the Act of 17 June 2008 reforming the statute of limitations in civil matters? note under Com., 5 sept. 2013, D 2014, jur., p. 244
- La garantie des vices cachés barricadée : halte aux clauses limitatives de réparation, note under Com., 19 mars 2013, 2013, jur., p. 1948
- Does the delegation of a debt by a société anonyme require the authorisation of the board of directors, note under Com., 15 janvier 2013, D 2013, jur., p. 118

- A mystery guest in the presumption of joint and several liability in commercial matters? Note under Com., 5 June 2012, D 2012, jur., p. 2580
- Termination of the contract and the early termination clause (speculation on the background to a ruling), note under Com., 3 May 2012, JCP G 2012, II, p. 1501
- The risk of double payment by the assigned debtor in the event of cancellation of the assignment of the claim, note under Com., 11 October 2011, D 2012, jur., p. 1107
- Penalty clauses and invalidity of contracts, note under Com., 22 March 2011, D 2011, jur., p. 2179
- Under legal subrogation, the single cause of a plural obligation, note under Civ.1rst, 25 November 2009, D 2010, jur., p. 802

Observations

- Is the rider to the main contract guaranteed by the latter's surety bond? obs. under Com., 24 June 2014, Journ. speciale sociétés 2014
- Can extinctive prescription threaten a claim with a term? A propos du crédit immobilier consenti par un professionnel à un consommateur, obs. sous Civ. 1ère, 10 July 2014, Journ. spéc. sociétés 2014
- Can the sale "à réméré" preceded by a credit granted by the seller to the buyer be requalified as a pacte comissoire? obs. under Civ. 3ème, 21 May 2014, Journ. spéc. sociétés, June 2014, p. 60
- Liability of company directors: the three-year limitation period weakened by the recourse action regime, obs. under Com, 6 May 2014, Journ. spéc. sociétés, June 2014, p. 59
- The price of a transfer of corporate rights resulting from a unilateral promise cannot be called into question on the basis of article 1843-4 of the Civil Code, obs. under Com, 11 March 2014, Journ. spéc. sociétés, May 2014, p. 51
- Hidden defects guarantee: the seller is (still) not entitled to compensation for the use or wear and tear of the item sold, obs. under Civ. 1ère, 19 feb. 2014, Journ. spéc. sociétés, April 2014, p.65
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- A look at the "contract" section of the latest "Preliminary draft reform of the law of obligations", Journ. spéc. sociétés, March 2014, p.56
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- The drafter of a transfer of corporate rights must inform the transferor of the continuation of his guarantee, obs. under Com., 4 December 2012, Journ. spéc. sociétés, May 2013, p.64
- Authorisation from the Board of Directors is required for a company limited by shares to enter into a guarantee as surety, obs. under Com., 15 January 2013, Journ. spéc. sociétés, May 2013, p.65
- The drafter of a transfer of corporate rights must inform the transferor of the continuation of his guarantee, obs. under Com., 4 December 2012, Journ. spéc. sociétés, April 2013

- Transfer of a claim under a liability guarantee, obs. under Com., 9 October 2012, Journ. spéc. sociétés, February 2013, p.66
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- Co-contracting: contractors who have not sufficiently separated themselves in the contract are jointly and severally liable for each other's losses, obs. sous Civ. 3rd, 11 July 2012, Journ. spéc. sociétés, November 2012, p. 40
- The unanimous consent of the partners of the guarantor company: relative security, obs. under Civ. 3rd, 12 September 2012, Journ. spéc. sociétés, November 2012, p. 42
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- Is the unsuitability of an item of equipment for the contractor's professional activity a ground for nullity of the contract? Observation under Com. 11 April 2012, Journ. spéc. sociétés, July 2012, p. 76
- The joint and several guarantee on the assignor of a professional claim may be purged of its subsidiarity, obs. under Com. 5 June 2012, Journ. spéc. sociétés, July 2012, p. 77
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- The ratification surety is bound by an obligation of result, obs. under Soc. 3 May 2012, Journ. spéc. sociétés, May 2012, p. 53
- The relative fragility of the instalment payment order, obs. under Com., 27 March 2012, Journ. spéc. sociétés, April 2012, p. 54
- Seller's warranty: emerging defect is not an apparent defect, obs. under Civ. 3rd, 14 mars 2012, Journ. spéc. sociétés, April 2012, p. 55
- The ingredients for a good IOU, obs. under Civ 1st, 12 January 2012, Journ. spéc. sociétés, February 2012, p. 49
- The duration of a mortgage granted as security for another person's debt, obs. under Civ. 1st, 12 January 2012, Journ. spéc. sociétés, février 2012, p. 50
- A mistake as to profitability may lead to the nullity of a franchise agreement, comments under Com. 4 October 2011, Journ. spéc. sociétés, January 2012, p. 54
- A guarantor who pleads must take care to concentrate his resources and even his claims, obs. under Com. 25 October 2011, Journ. spéc. sociétés, January 2012, p. 55
- The clause waiving judicial resolution of the contract is valid, observations under Civ. 3ème, 3 November 2011, Journ. spéc. sociétés, December 2011, p. 55
- Risks associated with issuing receipts, obs. under Civ 1st, 4 November 2011, Journ. spéc. sociétés, December 2011, p. 56
- Breach of an established commercial relationship: third parties can also take action!, obs. sous Com., 6 September 2011, Journ. spéc. sociétés, November 2011, p. 56
- First demand guarantee: beware of the statute of limitations for counter-guarantees, obs. under Com., 13 September 2011, Journ. spéc. sociétés, November 2011, p. 57
- Reach of an established commercial relationship: third parties can also take action, comments under Com. 6 September 2011, Journ. spéc. sociétés, November 2011, p. 56

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- Retroactivity and restitutions, in La caducité du contrat, morning session organised by the Revue des contrats, 23 November 2022 (pub.)
- Uncertainty linked to the strengthening of the judge's powers through the use of hollow notions and standards, *in* The role of private law as a social regulator, Colloquium Master 2 Droit privé général université de Paris 1, 15 April 2022
- Dematerialisation of securities, *in* Dematerialization, Colloquium Master 2 Business Contracts and Credit Law, Paris-Saclay University, 8 April 2022
- The reform of securities law and the business lawyer, *in* The reform of securities law and its impact on the legal professions, Clermont-Auvergne University, 11 March 2022
- Pledges and collateral, *in* How should security law be reformed?, Clermont-Auvergne University, 8 November 2018 (pub.)
- Pre-contractual period, promises and pre-contracts (with Hélène Hoepffner), *in* Private law contracts and administrative contracts, Dialogues on domestic comparative law, CNAM and Paris-Saclay University, 14 & 15 June 2018 (pub.)
- The delegation, French report, *in* The transmission of obligations, joint seminar UCL Université de Paris 1, May 2017 (pub.)
- Feedbacks, *in* The innovations of the reform of contract law, University of Evry Val d'Essonne, June 2016 (pub.)
- Set-off, *in* The new general system of obligations, Poitiers University, 27 May 2016 (pub.)
- General system of obligations and law of securities, *in* The general system of obligations, the cement of private law, University of Angers, 7 November 2013 (pub.)
- The layman and the general system of obligations, *in* The professional and the layman, University of Angers, December 2011 (pub.)

Jurys de soutenance de thèses :

- 2016 : Y. Marjault, Disjunctive obligations: a study of alternative and optional obligations (Maine University, dir. F. Gréau et R. Marty)
- 2014 : Y. Blandin, Pledges on current assets (Paris 2, dir. A. Ghozi)
- 2013 : M. Maroudis, The distance contract: concept and regime, comparative study (Grenoble, dir. S. Bros)
- 2011 : M. Julienne, Pledging of receivables (Paris I, dir. L. Aynès)
- 2011 : O. Saedi, Delay in the performance of contractual obligations: a comparative study of French and Iranian civil law (Paris I, dir. L. Aynès)
- 2010 : N. Claude, The variability of employment law (Angers, dir. B. Gauriau)

- 2010 : J.-D. Pellier, Essay on a theory of personal sureties in the light of the concept of obligation, Contribution to the study of the concept of co-obligation (Aix-Marseille, dir. A. Leborgne et C. Atias)
- 2009 : E. Flusin, Apprehending a property through a company (Paris I, dir. J. Honorat)
- 2008 : H. Chamroeun, Land conflicts in Cambodia, A contribution to knowledge of Cambodian property law (Paris I, dir. R. Libchaber)