

Classifications des obligations

Classification selon l'intensité de l'obligation

- ❖ Obligation de garantie (ex. assurance de dommage art. 2464 C.c.Q.)
 - Devoir de garantir la réalisation d'un résultat précis et déterminé
 - Même la survenance d'un cas de force majeure ne peut pas exonérer le débiteur

Critères d'identification

❖ Explicite

- Précisée dans la loi
- Stipulée au contrat

❖ Implicite : interprétation des indices

- Maîtrise de la situation par le débiteur
 - Rôle du créancier
 - Existence d'aléa
- Attente ou utilité de l'exécution pour le créancier
- Enjeu de partage de risques

Implicite : interprétation des indices

- Maîtrise de la situation par le débiteur
 - Rôle du créancier
 - Existence d'aléa (risque qui échappe au débiteur (ex. le médecin ne peut pas prévoir le résultat d'un traitement))
- Attente ou utilité de l'exécution pour le créancier
- Enjeu de partages de risques

Intérêt de distinction

- Preuve de l'inexécution de l'obligation

Classification Of Obligations

Mike Jess



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