INTRODUCTION

A. This is a civil law course
B. This course is about more than contracts

Look at the Table of Contents to your Civil Code (in the 2002 Edition, it starts on p. XXV). In which "Book" of the Code is the subject of "Obligations" addressed? In which "Title" or "Titles"? What's the name of Title III? What's the name of Title IV? What's the name of Title V? "Obligations Arising Without Agreement." What light, if any, does this organizational scheme shed on our question "Is 'obligations' coterminous with 'contracts'"?

But just what are these "other" obligations, that is, those that don't spring from contracts?

IH 1. Jean Sot, realizing that the next payment on his home mortgage will soon be due, makes out a check to the mortgage creditor, Cajun Bank & Trust, and mails it off. There's just one problem: Jean Sot, who's not very bright, mistakenly mails the payment to Creole Bank & Trust. Is there an obligation? If so, what is it? Hint: Look, first, at the title of "Title V, Book III" of the Civil Code, which appears just before article 2292, and, then, at that article (2299).

IH 2. Ti-Boy deliberately backs his pick-up truck over Lil-Fille's roses. Is there an obligation? If so, what is it? Hint: See CC art. 2315.

IH 3. Ti-Boy negligently backs his pick-up truck over Lil-Fille's roses. Is there an obligation? If so, what is it? Hint: Look at CC arts. 2315 & 2316.

PART I
OBLIGATIONS IN GENERAL

A. Definition of "Obligation"

1. Common Definition: Duty
   How is the term "obligation" commonly used? What is the counterpart to or correlative of "duty"?

2. Technical Definition: Juridical Bond/Relation
   Is the "technical" meaning of obligation the same? If so, how is it different? See CC art. 1756, sent.
   a. Legal Relationship
      1) Legal Relationship
         What's the significance of defining "obligation" as a legal relationship?
      2) Legal Relationship
         a) Prolegomena: Juridical Relations
         Read Trahan, Supp, 2-5.
            1] Definition of Juridical Relation
            What is a "juridical relation"?
            2] Elements of Juridical Relations
            What are the "elements" of a juridical relation? In other words, what are the essential attributes of every juridical relation?
               a] Subjects
                  1] Definition of Subject
                  What do we mean by the "subjects" of juridical relations?
                  2] Types of Subjects
                  Every subject of a juridical relation, civil law scholars agree, falls into either of two categories. What are they? What's the difference?
               b] Objects
                  What do we mean by the "object" of juridical relations?
                  b) Conclusions: Obligations as a Kind of Juridical Relation
                  What's the significance of defining obligation as a relationship "whereby a person, called the obligor, is bound to render a performance in favor of another, called the obligee"?
1) **Prolegomena: The Taxonomy of Juridical Relations in General**

Read Trahan, Supp, 5 (Weill & Terré, n° 239).

a) **First Division: Patrimonial Relations v. Extra-Patrimonial Relations**

Read Trahan, Supp, 5-9.

1) **Preliminary Matters**

a] **Explication of the Concept of Patrimony**

What does the term "patrimony" mean?

b] **The Distinction Between Patrimonial & Extra-Patrimonial Rights & Duties**

1} **Patrimonial Rights & Duties**

What do we mean by a patrimonial right or duty? What are some examples? *See* CC arts. 477, 533, 534, 646, 1906, 2292, 2298, 2299, 2315-2317.

2} **Extra-Patrimonial Rights & Duties**

What do we mean by an extra-patrimonial right or duty? What are some examples? *See* CC arts. 98, 215-17, 224, 227.

2) **The Distinction Between Patrimonial & Extra-Patrimonial Relations**

a] **Patrimonial Relations**

b] **Extra-Patrimonial Relations**

Read Trahan, Supp, 9-15.

1] **Real Relations**

a] **Definition**

What is a "real relation"? What's a real right? *See* CC art. 476 cmt. (b) & art. 1763 cmt. (b). What do we mean when we say that real rights confer *direct and immediate* authority over a thing? What do we mean when we say that real rights are held *against the world*?

Now, how is real *obligation* defined? *See* CC art. 1763. Isn’t there something wrong with this concept? What is it? *See* id. cmt. (b). Wouldn’t it be better to speak of a real *duty*? Why?

What do you think of this definition of “real relation”? It’s a juridical relation whereby "everybody else is obligated not to interfere with [the holder's] [use, enjoyment, and/or disposal] of a thing." Hans Kelsen, *GENERAL THEORY OF LAW & STATE* 76 (Anders Wedberg tr., 1945).

b] **Elements**

1} **Subjects**

Who are the "subjects" of the juridical relation called "real relation"? Who's the active subject? Who's the passive subject?

2} **Object**

How should we describe the "object" of this relationship called "real relation"?

2) **Obligations**

a] **Definition**

What, again, is the definition of “obligation” (or “credit relation”)? *See* (again) CC art. 1756.

b] **Elements**

1} **Subjects**

Who are the "subjects" of the juridical relation called "obligation"? Who's the active subject? What is he called? Who's the passive subject? What's he called?

2} **Objects**

How should we describe the "object" of the juridical relation called "obligation"? What might that object entail? *See* CC art. 1756, sent. 2.

2) **Conclusion: What Distinguishes Obligations from Other Members of the "Family" of Juridical Relations**

a) As Opposed to Extra-Patrimonial Relations

b) As Opposed to Real Relations