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A judge with a PhD in Law and a Professor at the Escola Judicial (Law School), Xavier Abel Lluch was also co-director with Dr. Joan Picó i Junoy, Chair of Procedural Law at Rovira i Virgili University, of a research seminar for trainee judges at the Escola Judicial. This seminar gave rise to the book “Objeto y carga de la Prueba Civil” (2007) (Object and Burden of Civil Evidence).

**Xavier Abel Lluch**
Director of the Institute of Forensic Evidence and Probative Law
Where did the idea of writing a book come from?
It came out of a seminar the Escola Judicial has been running since 2003, which has always focussed on issues in civil evidence and had already given rise to a number of publications including “Los Poderes del Juez Civil en materia probatoria” (2003) (The Powers of Civil Judges in Evidential Issues), “Problemas Actuales de la Prueba Civil” (2005) (Current Problems in Civil Evidence) and “Aspectos Prácticos de la Prueba Civil” (2006) (Practical Aspects of Civil Evidence). The seminar is designed to achieve two things: firstly, we want to foster the investigative interest of Escola Judicial trainee judges, and secondly we want to look at civil evidence issues following the publication of the Civil Procedure Act (Llei d’Enjudiciament Civil) in 2000. In the case we are concerned with, it was geared towards the object and burden of proof.

What extra value does the group effort of a number of legal experts bring?
The book was written at the seminar by trainee judges, some of whom were being trained at the Escola Judicial while others already had some limited experience of court proceedings. So I think that the added value the publication brings is that legal thinking, when transmitted to the reader, is more casuistic because it stems from the experience that these legal professionals have had in the cases they have dealt with.

What type of methodology was used for the publication?
There are three aspects to methodology here: how the topics were selected, the choice of authors and how the seminar was run. For the first of these, the topics were chosen because they were innovative, for instance “La carga de la prueba y la iniciativa probatoria de oficio en la Ley de Enjuiciamiento Civil” (The Burden of Proof and Ex Officio Evidential Initiative in the Civil Procedure Act) and “La prueba de los hechos nuevos” (Evidence of New Facts), or because they had never been tackled before in a single-issue article as is the case with “La carga de prueba de la costumbre” (The Burden of Proof of Custom), etc. The authors were chosen based on their academic record and the interest they showed in the topics at an interview with the two seminar directors. All the articles follow the same pattern, with an introduction, main text and conclusions, a systematic index of jurisprudence and a bibliography.

What sort of audience is the book for? Is it just for legal professionals?
Our target audience is mainly legal professionals and, more specifically, university lecturers and lawyers who commonly work in court. However it is also intended for undergraduate law students who want to look at civil evidence issues in greater depth than the explanations you get in standard civil procedural law textbooks.

Talking of sources of information, which ones did you start with?
For each topic we chose a bibliography featuring both classic and more recent texts and also papers published in specialist legal journals. Jurisprudence was also very much taken into account as a source of information for the book, particularly minor jurisprudence which comes from provincial courts. Each of the articles contains an index giving the most relevant jurisprudence laid out systematically with the sentence, an overview of the jurisprudence itself and what was in the sentence.

What other interesting issues are featured in the book?
Even though I think all of them are interesting, I would single out issues such as the burden of proof and ex officio evidential initiative in the Civil Procedure Act, the burden of proof of custom and foreign law, for example. I would also mention the last chapter entitled “El relato de los hechos probados en la sentencia civil” (The Account of Proven Facts in Civil Sentencing).
In what ways is it a good thing that rules have been set about evidential initiative for the first time?
This topic is dealt with in the first article which I wrote and is called “Sobre la prueba y el derecho de la prueba en el proceso civil” (On Evidence and the Right of Evidence in Civil Proceedings). It is a more generic article which introduces the major questions in evidential law: what is evidence, what does it prove, what is used to prove it, who proves it and how evidence is evaluated. Out of all of them there is one that I’ve always found particularly interesting: who has the initiative in evidential activity? This was the subject of my doctoral thesis which I did at the University of Barcelona and which led to my monograph “Iniciativa probatoria de oficio en el proceso civil” (2005) (Ex Officio Evidential Initiative in Civil Proceedings). In civil proceedings, the parties are entitled and bound to submit evidence, and the judge has a limited amount of room for ex officio testing in those cases provided for by the Act. It’s a question of finding out how far a judge’s powers can go in evidential issues.

Based on previous experience, will there be continuity after this new book?
In fact, there already has been in two directions: firstly, the seminar has continued in the Escola Judicial and has led to a monograph entitled “Aspectos problemáticos en la valoración de la prueba civil” (published in 2008) (Problematic Aspects of Evaluating Civil Evidence) and another one which is being written called “Funciones de la Audiencia Previa” (Functions of the Preliminary Hearing). There has also been continuity in the Formació Continua collection started up by the ESADE Law School, and in which a new series has been begun with the title “Estudios prácticos sobre los medios de prueba” (Case Studies of Means of Evidence). As part of this series two monographs have already been published – “El interrogatorio de partes” (2007) (Cross-examination of Parties) and “El interrogatorio de testigos” (2008) (Cross-examination of Witnesses) – while a third is being written about “La prueba pericial” (Expert Evidence) and should come out in 2009. These monographs are part of the research work being done by a research group, headed by Professor Joan Picó i Junoy and myself, made up of judges and university lecturers who are looking into the different means of evidence in civil proceedings and controversial questions which come up every day in court. This research group has been helped enormously in the ESADE Law School by its Director General, Carlos Losada Madorrán, the Dean of the Law School, Pere Mirosa Martínez, and by the Vice-Rector for Continuous Learning, Enric Bartlett Castellà.