

DE PAUL UNIVERSITY COLLEGE OF LAW

SYLLABUS

SECURED TRANSACTIONS

Fall 2009

Professor Livingston

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Required Texts

Warren & Walt, Secured Transactions in Personal Property (Foundation Press 7th ed. 2007) (WW)

Commercial and Debtor-Creditor Law: Selected Statutes (Foundation Press 2008 or 2009 ed.)(Stat. Supp.) (You may use the West Commercial Statutes Supplement, if you prefer.)

Handout materials

Optional Texts

Russell Hakes, The ABC's of the UCC--Revised Article 9 (ABA 2000)(Product Code: 5070365; call the ABA at 1-800-285-2221 to order)

William H. Lawrence et al., Understanding Secured Transactions (Lexis, 4th ed. 2007)

James Brook, Secured Transactions: Examples & Explanations (Aspen, 4th ed. 2008)

Course Description

This course surveys the law applicable to financial transactions involving security interests. This law includes primarily Article 9 of the Uniform Commercial Code, the federal Bankruptcy Code, the federal Tax Lien statute, and miscellaneous state and federal laws.

In studying secured transactions, we will examine the scope of Article 9, attachment of security interests, perfection, determination of priorities among parties, the effect of bankruptcy on security interests, and the remedies of the secured party upon the debtor's default. We will also discuss specialized types of secured financing such as those involving inventory, accounts receivable, equipment, and consignments.

A few years ago, the National Conference of Commissioners on Uniform State Laws and the American Law Institute completed a major revision of Article 9. All fifty states, the District of Columbia, and the Virgin Islands have adopted Revised Article 9. In all but a handful of jurisdictions, the effective date of the revised statute was July 1, 2001. Given the universal enactment of the new law, the focus in this course will be on Revised Article 9.

Method of Instruction

I use a combination of lecture, case analysis, discussion of the statutes, and problem solving. Because this is a largely statutory course, problems will be emphasized. Work out the problems in the text before class and be prepared to discuss them. In working through the problems, you should focus on the applicable sections of Revised Article 9.

Method of Evaluation

Student grades will be based primarily on an in-class examination administered at the end of the semester. The examination will consist of a number of essay and multiple choice questions presenting various factual situations that require analysis of the legal issues involved. Essay answers will be graded on the basis of (1) the student's knowledge of the relevant legal principles and their rationale, (2) the student's ability to ascertain the issues presented by the factual situations, (3) the student's ability to analyze possible resolutions, and (4) the cogency and clarity of the student's analysis.

The examination will be entirely open book. Students may use any written materials during the examination, including but not limited to the casebook, the statutory supplement, the course supplement, class notes and outlines, and treatises.

Excellence in class participation also will be considered in determining the final grade for the course. See attached statement on the Present and Prepared Policy.

Blackboard

All students should routinely check the online website for this course through Blackboard. Go to <http://oll.depaul.edu> and follow the instructions.

I will post all handout materials, sample problems, and announcements on Blackboard, and students are responsible for downloading and printing the material for use in class.

PRESENT AND PREPARED POLICY

My "present and prepared" policy allows students who regularly attend class and participate in class discussion the opportunity to raise their exam grades one-half step (e.g., from a B to a B+). I will distribute a seating chart on the second day of class (on the first day for evening students) that all students should sign. Starting on the third day (second day for evening students) of class, I will arrive a few minutes early with a dated copy of the seating chart and a red pen. All students who are present and ready to be called on should come to the front of the room and place a red check next to their name. Students who are more than **two** minutes (five minutes for evening students) late may not check off their names. If you are within the grace period, come up to the front of the room and check off your name even if class has started. You may **not** check off your name at the end of class under any circumstances. On any given day, I will call on only those students who have checked off their names.

A student who checks off his/her name for 20 classes (10 classes for evening students) out of 26 (out of 13) will receive a half-step elevation of his/her grade from the final exam. Students who check their names but are not prepared may suffer a decrease of one-half grade for "bluffing." Students whose raw examination grade is a D or an F will not be entitled to have their grades raised under this policy.

Students who must miss class for any reason (e.g., illness, family emergency, jury service, moot court competitions, etc.) cannot be credited with being "present and prepared." The purpose of the six classes (three classes for evening students) that may be missed without penalty is to cover these events. In cases of extraordinary hardship, the professor may make exceptions to this policy.

In addition to being "present and prepared," students are encouraged to contribute voluntarily to class discussion. I reserve the right to adjust upward by an additional half step the grade of any student who has made an exceptionally high quality contribution to class discussion over the course of the semester.

My faculty clerk (8th floor, north) will keep track of the check marks for this class, and if you want to ascertain the number of classes for which you have checked "present and prepared," please see the clerk.

Note: To be counted as "Present and Prepared," you must bring your Statutory Supplement with you to class.

ASSIGNMENT SHEET

You should also read the applicable statutory provisions as indicated in the casebook and work out all problems within the reading assignment.

Week 1

Creating a Security Interest: Introduction
Warren & Walt (WW), pp. 2-20

Creating a Security Interest: Working Definitions & Attachment
WW, pp. 20-30

Week 2

Creating a Security Interest: Attachment
In the Matter of A-1 Paving & Contracting, Inc. (Handout)
WW, pp. 30-44

Creating a Security Interest: Attachment
WW, pp. 44-50
Litwiller Machine & Mfg., Inc. v. NBD Alpena Bank (Handout)
In re Standard Foundry Products, Inc. (Handout)

Week 3

Perfection: Perfection by Filing & Debtor's Name
WW, pp. 51-70
In re Erwin (Handout)
In re Kinderknecht (Handout)

Perfection: Debtor's Name
WW, pp. 70-83
In re John's Bean Farm of Homestead, Inc. (Handout)
First Cmty. Bank v. Jones (In re Silver Dollar, LLC) (Handout)
Homework Assignment: Test Searches (Blackboard)

Week 4

Perfection: Post-Filing Changes & The Filing System
WW, pp. 83-95

Perfection: Perfection by Possession & by Control, Consumer Goods
WW, pp. 95-105

- Week 5** Perfection: Choice of Law
WW, pp. 105-116
- Priority: First to File
WW, pp. 117-126
- Week 6** Priority: First to File
WW, pp. 126-129
Shelby County State Bank v. Van Diest Supply Co. (Handout)
- Priority: Purchase Money Security Interests
WW, pp. 129-146
- Week 7** Priority: Lien Creditors & Buyers
WW, pp. 146-152
- Priority: Buyers of Consumer Goods & Double Debtors
WW, pp. 152-159
- Week 8** Priority: Accounts & General Intangibles
WW, pp. 181-186
- Priority: Chattel Paper & Instruments
WW, pp. 186-196
- Week 9** Priority: Deposit Accounts & Cash Proceeds
WW, pp. 196-205; 205-212
- Priority: Cash Proceeds
WW, pp. 212-223
General Electric Capital Corp. v. Union Planters Bank (Handout)
Van Diest Supply Co. Shelby County State Bank (Handout)
- Week 10** Priority: Federal Tax Liens
WW, pp. 223-232
- Default & Enforcement: Acceleration & Lender Liability
WW, pp. 247-260
- Week 11** Default & Enforcement: Waiver & Estoppel; Repossession
WW, pp. 260-277
- Default & Enforcement: Disposition of Collateral
WW, pp. 280-296
- Week 12** Default & Enforcement: Liability for Deficiency

WW, pp. 296-302

Default & Enforcement: “Strict Foreclosure,” Redemption

WW, pp. 305-309, 321-322

Week 13

Bankruptcy: Overview, Trustee Avoiding Powers—Strong Arm Clause

WW, pp. 461-471, 492-493

Bankruptcy: Trustee Avoiding Powers—Preferences

WW, pp. 494-511

Week 14

Consignments

WW, pp. 349-361

Handout problems—Exam review