

DE PAUL UNIVERSITY COLLEGE OF LAW SYLLABUS

SECURED TRANSACTIONS Spring 2008

**Professor Shelly DeRousse
(312) 704-2175**

Required Texts

NIMMER, HILLINGER, AND HILLINGER, COMMERCIAL TRANSACTIONS: SECURED FINANCING
(Lexis, 3rd ed. 2003)(NHH)

COMMERCIAL AND DEBTOR-CREDITOR LAW: SELECTED STATUTES (Foundation Press 2006 or
2007 ed.)(Stat. Supp.) (You may use the West Commercial Statutes Supplement, if you prefer.)

Additional materials posted on Blackboard

Optional Text

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)

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 United States Bankruptcy Code, the federal Tax Lien statute, the Uniform Fraudulent Transfer Act, and miscellaneous state 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 fixtures.

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. The old law still has relevance under the transition rules, and as you go through the casebook, you should become somewhat familiar with the old law since most of the cases have been decided under it.

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. I have included in this syllabus an assignment sheet, which includes your reading assignment and problems you should complete BEFORE class, and a table of which Article 9 sections you should study in working through the problems.

Method of Evaluation

Final Exam

90% of student grades will be based primarily on a final examination administered at the end of the semester. I will provide details about the final examination later in the semester.

Class Participation Grade

10% of student grades will be based on class attendance **and** preparation. I will distribute a seating chart on the first day of class that all students should sign. I will take attendance in each class. In class, I will call on students to work through problems and discuss cases from the reading assignment. If you are not prepared for class but still wish to attend, see me before class and tell me not to call on you. In such instance, you will not receive credit for attending the class. If a student is called on and is not prepared, that student will not receive credit for attendance that day. Beware that I will try to keep calling on the “unprepared” students in subsequent classes until they learn to prepare for class. **YOU MUST HAVE BOTH YOUR TEXTBOOK AND STATUTORY SUPPLEMENT WITH YOU IN CLASS TO BE COUNTED AS PREPARED.**

If students are present and prepared for at least 22 of the 26 classes (not including the first day and last day), they will receive the full 10% of the Class Participation grade. For every class for which a student is not present and prepared below the 22 class threshold, the student will receive a deduction of 2% from the Class Participation grade. In other words, if a student is not present and prepared for a total of 9 of the 22 classes, that student will receive a 0% Class Participation grade.

I reserve the right to increase students' grades further for excellence in class participation.

Blackboard

All students should routinely check the online website for this course through Blackboard.

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.

ASSIGNMENT SHEET

[You should also read the applicable statutory provisions referred to in the attached problem table.]

Week 1

Overview of Secured Financing
Nimmer, Hillinger, and Hillinger (NHH), pp. 1-20

The Cosmic View of Secured Credit
NHH, pp. 21-40; **probs. 1.1; 1.3**

What Law Governs; Secured but Hardly Secure
NHH, pp. 40-50; **prob. 1.5**

Week 2

History of Modern Security Law; Collateral Classification
NHH, pp. 51-66; **probs. 2.1, 2.2, 2.5, 2.6**

HANDOUT ON BLACKBOARD

Week 3

The Pre-Closing Phase; Attachment: Written Security Agreement
NHH, pp. 67-87; **prob. 2.9**

Sample Security Agreement, NHH, pp. 547-566

In Shirley Medical Clinic, PC v. United States (Blackboard)

Scope of Interest Taken; Rights in Collateral
NHH, pp. 87-104

In re Wells Fargo Bank Minnesota, NA v. Robex, Inc. (Blackboard)

Banc of America Strategic Solutions Inc. v. Cooker Restaurant Corp.
(Blackboard)

Probs. 2.11, 2.14

Week 4

Requirement of Notice; Methods of Perfection
NHH, pp. 115-134; **probs. 3.2, 3.4**

Adequacy of Financing Statement
NHH, pp. 136-144; **probs. 3.8, 3.10**

In re Tyringham Holdings, Inc. (Blackboard)

Maintaining Perfection; Continuation Statements; Termination Statements
NHH, pp. 145-155; **probs. 3.13, 3.15, 3.17**

Week 5

Priority Issues: Lien Creditors
NHH, pp. 185-203; **probs. 4.1, 4.2**
I.R.C. § 6323 (Stat. Supp.)

Priority Among Secured Creditors
NHH, pp. 204-217; **probs. 4.5, 4.6, 4.7**

Week 6

Purchase Money Security Interests; Subordination Agreements
NHH, pp. 218-230; **probs. 4.10, 4.18**
Munday v. Lubbock Feeders, L.P. (Blackboard)

Priorities: Buyers of Goods
NHH, pp. 230-232; **probs. 4.19, 4.21**
Walden v. Mercedes Benz Credit Corp. (Blackboard)

Week 7

Introduction to Bankruptcy; Trustee's Strong Arm Clause, § 544(a)
NHH, pp. 251-289; **prob. 5.3**

Preferences, § 547(b)
NHH, pp. 291-302; **prob. 5.6**

Week 8

Exceptions, § 547(c)
NHH, pp. 302-316; **prob. 5.9**

HOMEWORK AND HANDOUT ON BLACKBOARD

Week 9

Default Issues: Waiver and Material Breach
NHH, pp. 321-336; **prob. 6.1**

Acceleration Clauses & Demand Notes
NHH, pp. 337-349; **prob. 6.4**

Week 10

Acceptance of Collateral; Disposition;
NHH, pp. 365-382; **probs. 6.9, 6.11, 6.21**
Lister v. Lee-Swofford Investments, LLP (Blackboard)

Proceeds and Handling Cash Proceeds

Madisonville State Bank, N.A. v. Citizens Bank of Texas, N.A.
(Blackboard)
NHH, pp. 412-418; **probs. 7.5, 7.10, 7.11**

Week 11

Secondary Financing: PMSI and Consignments
NHH, pp. 418-419, 427-429; **probs. 7.12, 7.16**

Chattel Paper
NHH, pp. 430-434; **prob. 7.18**

Week 12

Impact of Federal Law
NHH, pp. 434-439; **prob. 7.19**

Financing Based on Promises: Accounts and Payment Intangibles
NHH, pp. 441-466; **probs. 8.4, 8.7**

Week 13

Repossession; Debtor's Right to Redeem
NHH, pp. 350-365; **probs. 6.7, 6.8**

Fixtures
NHH, pp. 500-511; **prob. 9.2**

Floating Liens: Inventory and Receivables
NHH, pp. 393-412

Week 14

Real Estate
HOMEWORK AND HANDOUTS ON BLACKBOARD

Exam review (posted on Blackboard)

PROBLEM TABLE
Article 9

The following table will help you in working out the assigned problems from the casebook and gives the appropriate sections for both old Article 9 and new (revised) Article 9. In working out the problems for class, consult the appropriate Code sections under **only the new version of Article 9.**

	Old Article 9 /UCC section	New Article 9 /UCC section
Problem 1.3	9-107, 9-503, 9-506	9-103, 9-609, 9-623
Problem 1.5	1-201(37), 2A-102, 2A-103(1)(j), 2-326(3)(c), 2-401, 9-102, 9-104, 9-114	1-201 (37), 9-102 (a)(2), (a)(5), (a)(20); 9-109, 9-322
Problems 2.1, 2.2, 2.5, 2.6	1-201, 2-401(1), 9-105, 9-106, 9-109	9-102 (a)(11), (47), (65), (2), (42), (44), (23), (33), (34), (35), (48), (75), Official Comment 4 to 9-102; 2-401(1)
Problems 2.9, 2.11	9-203, 9-110	9-203, 9-108, 9-102(a)(73)
Problem 2.14	9-203, 2-105, 2-401, 2-501, 2-509, 9-105	2-105, 2-401, 2-501, 2-502, 2-509, 9-203, 2-716
Problems 3.2, 3.4	9-303, 9-302, 9-304, 9-305, 9-302(1)(e), 9-401(1), 9-302(1)(d)	9-308, 9-310, 9-311, 9-312, 9-313, 9-309(2), 9-501(a), 9-309(1), 9-314, 9-106, 9-104
Problems 3.8, 3.10	9-402(1), 9-401(7), 9-110, 9-402(8), 9-208	9-502(a), 9-503, 9-108, 9-504, 9-506, 9-210, 9-516, 9-338
Problems 3.13, 3.15	9-402(7), 9-401(3)	9-506, 9-507, 9-508, 9-512, 9-521, 9-203(d),(e), 9-316
Problem 3.17	9-403	9-510, 9-515, 9-516, 9-520, 1-201(32), (33)
Problem 3.18	9-103	9-301, 9-307, 9-316

Problems 4.1, 4.2	9-301(1)(b)	9-102(a)(2),(5),(52), 9-317
Problem 4.5	9-312(5), 9-401(2)	9-322(a)
Problems 4.6, 4.7	9-312(5),(7)	9-322(a), 9-323(a)
Problem 4.10	9-312(4)	9-103, 9-322, 9-323, 9-324(a), (g)
Problem 4.18	9-404, 9-406	9-512, 9-513
Problems 4.19, 4.21	9-307(1), (2), 9-306(2), 9-301(1)(c), 9-201, 9-401(3), 9-402(7), 9-312, 1-201	9-309(a), 9-320(a), (b), 9-315(a)(1), 9-317(b), 9-201(a), 9-503(a), 9-507, 9-322, 1-201(9), 9-325
Problems 5.3, 5.6, 5.9, 6.1, 6.4	Consult federal Bankruptcy Code and/or case law	Consult federal Bankruptcy Code and/or case law
Problem 6.7	9-501, 9-503, 9-504(1), 9-507	9-602, 9-609, 9-615(a), 9-625, 9-626
Problem 6.8	9-506; Bank. Code § 722	9-623; Bank. Code § 722
Problem 6.9	9-505	9-620, 9-621, 9-622, 9-623, 9-625
Problem 6.11	9-504(3), 9-507	9-610, 9-625, 9-626, 9-627
Problem 6.21	9-504(1), 9-507(2)	9-610, 9-611, 9-612, 9-613, 9-618, 9-626, 9-627
Problem 7.5	9-203, 9-306, 9-312, 9-402	9-102(a)(9), (64), 9-203(f), 9-312, 9-315, 9-322, 9-332, 9-507
Problems 7.10, 7.11	9-306(3)	9-315(b), 9-327
Problem 7.12	9-312(3)	9-330, 9-322, 9-324(b), (c), 9-102, 9-103

Problem 7.16	2-326, 9-114	9-102(a)(20), 9-109(a)(4), 9-103(d), 9-319
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Problem 7.18	9-308, 9-306(5)	9-330 & Official Comments 9 through 11, 9-315, 9-324, 9-102(a)(11), 9-322
Problem 7.19	Bank. Code § 547(c)(5)	Bank. Code § 547(c)(5)
Problem 8.4	9-103(3), 9-103(4), 9-401(1), 9-305, 9-302(1)(e), 9-306	9-301, 9-307(e), 9-312(a), 9-313, 9-309, 9-109, 9-315(c)
Problems 8.7	9-312(5), 9-312 (6), 9-302(1)(e)	9-322(a), (b), 9-332, 9-309(2), 9-331 & Official Comment 5
Problem 9.2	9-313	9-102(a)(41), 9-317 (a), 9-334, 9-501(a)