

Sales
William Mitchell College of Law
Professor Gregory M. Duhl
Fall 2010

Syllabus

This course covers Article 2 of the Uniform Commercial Code (“U.C.C.” or “Code”), which governs the sale of goods.¹ To a lesser extent, we also cover Article 2A of the U.C.C. (leases) and the U.N. Convention on the International Sale of Goods (“CISG”). While you will learn the doctrine of Article 2, my greater expectation is for you to learn how lawyers solve legal, business, and ethical problems. Hopefully, as a result, many of you will gain an appreciation of commercial law and the U.C.C. and continue your study of, and pursue a practice in, this area of law.

1. Learning Objectives. My objectives for each of you are (i) to develop a mastery of the “law” of Article 2 so you have familiarity with the subject for your other courses, the bar examination, and practice—specifically, you should be able to answer five questions by the end of the course: **(a) what body of law applies? (b) is there an enforceable contract? (c) what are the terms of the contract? (d) was there a breach of contract? (e) if so, what are the aggrieved parties’ legal and non-legal remedies?** (ii) to improve your ability to read and interpret a statute and to confront ambiguity in statutory language; (iii) to identify legal and non-legal considerations that parties should be aware of in structuring transactions; and (iv) to practice communicating legal advice succinctly and effectively.

From the first day on, know the five questions (a)–(e) above, be able to ask them about any transaction, and think about which question(s) we are asking at any particular time. If at any time while in class or preparing for class or reviewing, you do not know the question(s) that is relevant to what you are reading or hearing, stop—and raise your hand, call, e-mail, or stop by my office to ask.

2. Books. There are two books for the course: (i) Linda J. Rusch & Stephen L. Sepinuck, Sales & Leases: A Problem Solving Approach (West 2009); and (ii) Ronald J. Mann, Elizabeth Warren & Jay Lawrence Westbrook, Comprehensive Commercial Law (Aspen 2010). The bookstore has both books. In Comprehensive Commercial Law, we will generally use revised Article 1 and current Article 2, which, with some exception, are the law in Minnesota. Please bring both books to class each session. You need to be able to notate the statute and move easily among sections. You also need to have access to, and be able to read, the Official Comments in class.

You also should read the course “problem” (*In re Sunrise Landscaping*) before the first class and periodically throughout the semester. We will be referencing it from time to time to apply what we are learning (answering the five questions above), and you will have to write up your analysis over the course of the semester.

¹ You will also hear bankruptcy practitioners and scholars refer to the Bankruptcy Code as the “Code,” and tax practitioners and scholars refer to the Internal Revenue Code as the “Code.” These are different “codes.”

3. Assignments. I will divide the course into assignments. Each assignment has text and a number of problems. We will roughly cover one assignment every class hour or two class hours, depending on the length of the assignment. I will post your reading assignments approximately two class periods in advance on Blackboard. You must look at Blackboard before beginning an assignment because I assign only selected problems.

While you should read the text before attempting the problems, you do not have to read the text as you would a case. Spend most of your time working through the assigned problems, and reading the Code sections (and the Official Comments) referenced in the problems. This is a problem-solving course, not a case-analysis course. Likewise, the focus is not on litigation but primarily on how to plan transactions and solve problems when two parties are thinking about entering, or already have entered, a contractual relationship.

When you answer my questions in class, part of your answer should be “the Code says.” Read the language from the Code. You should be referring your classmates (and me) to the relevant Code section or Official Comment and resisting the temptation to share solely your gut instinct. I am much more interested in how you arrived at your answer than in what your answer is.

For each assignment, I will follow roughly the same format. I will lecture for about ten minutes, amplifying the material in the text. I will often present the same material in a different way. Then, I will work through the assigned problems with a group of students in the class. Often, and regularly during the two-hour class sessions, I will ask you to do short tasks in small groups (e.g., sample multiple choice problem, short review essay, etc.) or individually.

4. Class Meetings. We meet Tuesdays from Noon to 12:50 p.m. and on Wednesdays from 1:00 p.m. and 2:50 p.m. On Wednesdays, we will take a break from 1:50 p.m. to 2:00 p.m. I start class and end class punctually. In exchange, please do not begin to pack up until I finish as it is distracting.

5. Law Firms and Participation. By 5:00 p.m. on Thursday, August 26, you need to form a law firm with two or three other students and e-mail me the names of the students in your firm. You may, in the alternative, request for me to assign you to a law firm. Only one student in the law firm needs to e-mail me with the names of the students in the firm.

I will then assign the assignments (not class days) to law firms. If your law firm is “on call” for an assignment (and I will try to let you know at least two periods in advance), the members of your firm will be primarily responsible for working through the problems for that assignment with me in class. I might call on students other than the assigned law firm (but rarely do), and other students may participate. All members of the law firm “on call” should be prepared to answer all of the assigned problems for any assignment. All law firms will be on call at least once; the biggest law firms might be on call twice.

Every member of your law firm must be present on your assigned day(s). If for some reason a member is not present, I will assign your firm an assignment in addition to the assignment for

which you are scheduled. I also reserve the right to lower the grade of everyone in your law firm by one-third.

In class, I will also occasionally ask you to do various exercises in your law firms. You may always volunteer to participate and ask questions even if you are not on “call.”

6. Seating Chart. You may sit wherever you want the first two classes. On Tuesday, August 31, 2010, pick the seat you want the rest of the semester as I will pass around a seating chart. Please sit near the other members of your law firm.

7. Assessment. There are several graded assessments in this course: (i) three short out-of-class writing exercises (5 percent of your grade each) in which you will analyze issues arising out of the course “problem” (each analysis will be limited to about 250 to 500 words and you will have two weeks to do each assignment); (ii) a one-hour in-class midterm examination consisting of five to ten multiple choice questions and one short bar examination essay counting for 10 percent of your grade (date to be determined); (iv) your written analysis to the course “problem” (due the last day of class), which counts for 40 percent of your course grade; (iii) and a two-and-a-half hour final examination with fifteen multiple choice questions and two short, bar examination essays that counts for 35 percent of your grade. The examinations are graded anonymously; the out-of-class writing exercises are not because we can recognize student work as a result of helping students over the course of the semester.

I encourage, but do not require, you to complete the writing exercises with the other students in your law firm. If you choose to do so, each member of the law firm receives the same grade on the assignment. I do not resolve disputes within law firms and do not make students work with each other on graded assessments. Working with others is an important skill in legal practice and one in which you do not get a lot of practice in law school.

You must, however, write up your course “problem” on your own at the end of the semester, though you are welcome to use any of the work you submitted (individually or as part of a group) and talk to anyone, student in this class or not, about the “problem.”

The midterm and final examinations are open book. You must complete them alone. You may use **any non-electronic** materials that you wish. You may not use a calculator. All of my multiple choice questions have only five choices and only one right answer. Prepare for the examinations as if they were closed book because you will not have much time to look up the answers to the questions. There might be questions about topics we did not cover in class; those questions are designed to evaluate your ability to read and interpret sections of the Code with which you are unfamiliar.

Although I run a democratic classroom, and am accessible and nice, I have very high expectations for each of you. These are no different than the expectations that I have for myself, as I am very committed to your learning. I do not grade on a curve or in accordance with a preconceived distribution of what grades should be. Most students find my grading fair and reasonable despite that I am demanding. I make my expectations clear and help you succeed. Everyone has the potential to earn an “A.”

I may adjust your grade upward for improvement over the course of the semester, or to compensate for exceptional performance on the final “problem” and mediocre performance on the examinations. In the end, I assess your learning over the course of the semester. The process is inexact, and I try to reward students who demonstrate learning in different ways.

8. Co-Instructor. In teaching this course, I will be working with Jaclyn Millner, an attorney in the Twin Cities who graduated from William Mitchell in 2009. For each of the out-of-class writing assignments, Ms. Millner will be commenting on and grading two-thirds and I will be grading one-third, and we will rotate which one-third I comment on and grade. We will standardize the grading. Ms. Millner will be grading the essay on the midterm and one of the two essays on the final examination (I will grade the other), on the same scale that the bar examiners use. We will review the final assignments together and agree on a grade. Ms. Millner is available to confer with you by e-mail, telephone, or in person, to discuss any questions you have about the course “problem,” including reviewing drafts of your work. She will also give you feedback on practice essays if you write them. She will participate in a few of the class sessions. You may reach her at jaclyn.millner@gmail.com, or call her at (612) 804-9770. She is available to meet by appointment. You should direct substantive questions about Article 2 to me; I am the subject matter expert.

9. Attendance. You must attend, and be prepared for, at least 80 percent of the class hours in the course. If not, I will lower your grade by one-third for each class hour you miss below 80 percent of the class hours. If you are on time, present, and prepared, please sign the attendance sheet. If you are not prepared, or must come late or leave early, you are welcome to attend class but do not sign the attendance sheet. Being prepared means that you read the text and worked through the assigned problems (while reading the relevant Code sections and Official Comments at the same time). You do not need to write out answers to the problems.

There are no exceptions to this policy. Consequently, you should not need to tell me that you are missing class or why you are doing so.

I do not allow tape recording or videotaping of my class.

10. Blackboard. I will use Blackboard to post assignments and to communicate with you throughout the course. You should check your e-mail at the e-mail address you provide on Blackboard regularly.

11. Contact Information. My office is Room 303. My office telephone number is 651-290-6409. My home telephone number is 651-221-1930. My cell phone number is 312-208-5778. You may call me after 6:00 a.m. and until midnight, seven days a week. I’ll answer if I am available. My e-mail address is gregory.duhl@wmitchell.edu. My office hours are Wednesday between 3:00 p.m. and 5:00 p.m. If you plan to stop by my office hours, please e-mail me in advance and let me know. My experience has been that students do not stop by during office hours and prefer to schedule appointments at times convenient to them. Consequently, if no one requests to meet with me during my office hours by 300 a.m. on Wednesday morning (twelve hours in advance), I cancel them.

I am very accessible, although I am often not in my office. If you have a question, please e-mail me and I will get back to you within twelve hours (usually within one or two hours). If you would prefer to meet in person with me, e-mail me three times that you are available and I will e-mail you back to confirm a time to meet.

My assistant is Melissa Richard; she is located in Room 301. While she is very friendly, she does not keep my schedule, usually does not know where I am, and is unfamiliar with U.C.C. Sales.

12. Final Note. If you have any questions about my expectations for you, please ask me. Otherwise, I will expect that you have read this syllabus and understand it. Of course, I will provide you more detailed instructions throughout the semester

I will give you feedback on your how well I believe you are learning over the course of the semester. I believe in a system of mutual feedback. Consequently, if there is anything I can do to better facilitate your learning, please let me know.