

Syllabus for Sales

Fall 2004

Professor Byrne

[updated as of 30 July 2004]

1. Materials to be used for class are:

(a) Case Materials

The case materials are contained in Honnold & Reitz, *Sales Transactions: Domestic and International Law* (2nd Ed., 2001). The authors of this book were the leading figures in this field. Professor Reitz remains active in it, and the case book remains the leading book in the field.

From time to time useful supplementary materials will also be placed on reserve and assigned.

(b) Statutes and Restatements

It will be necessary to have the Model UCC with Official Comments for reference to Articles 1, 2 (including the revision to UCC Article 2), 2A, and 7 and the United Nations Convention on Contracts for the International Sale of Goods (the Vienna Convention). These are available in the 2004 Foundation Press *Commercial and Debtor-Creditor Law: Selected Statutes*. Any edition prior to 2004 does not contain Revised UCC Article 2.

It will also be necessary to be familiar with INCOTERMS 2000 published by the International Chamber of Commerce. The text and explanatory materials are on reserve. These materials (including a summary which you must prepare yourself of the INCOTERMS) may be taken into the examination and the questions will be based on the assumption that the student has access to them during the examination.

(c) Supplementary Materials

It is also suggested that the student find and have recourse to a reliable source of model clauses or contract forms for reference. The law library contains several. Such materials may not, however, be brought into the examination.

There are a number of treatises, study aids, and professional tools available to assist you in understanding the law of sales. Nordstrom's Hornbook on *Sales* is dated but still useful. Honnold's commentary, *Uniform Law for Sales Under the 1980 United Nations Convention* (2nd Ed., 1991) is the leading treatise on the UN Convention.

The American Bar Association's UCC Committee has a volume on UCC Article 2 which is part of the ABCs of the UCC series. It is available in the GMUSL library.

There is a tutorial on warranties and acceptance at <http://www.law.utk.edu/cle/lessons.htm> which some have found helpful.

2. Objectives

Sales starts with and builds on the study of the law of Contracts. Its purpose is to go beyond the law of contracts in order to expose the student to the principal doctrines on which the law relating to the exchange of goods is based, and to explore collateral issues regarding payment and security interests thereby laying a basis for other commercial law courses in Commercial Paper, Security Interests, and International Commercial Transactions.

The approach will compare U.S. domestic sales law with international sales law in the form of the UN Convention, to which the U.S. is a party and to which every transaction between contracting states is subject unless the Convention is excluded.

The course will also provide an introduction to Revised UCC Article 2, giving students an advantage over lawyers trained only in original UCC Article 2 who lack time to study or integrate the changes.

After reviewing basic issues relating to the scope of the applicable law, the course will examine issues of title, good faith purchase, warranty of quality, disclaimers and limitations, personal injury law, performance, documentary transactions, letters of credit, default, non-performance, and risk of loss.

The goals of the course are to acquaint students with principles of analysis of specific problems and issues, drafting, comprehension of the law of a particular case, formulation of a synthesis of related case law regarding a particular issue, and utilization of the Uniform Commercial Code.

3. Grades & Examination

The grades will be based upon a final examination which will take place as scheduled on 6 December 2004, beginning at 6:00 PM (18.00 hours). Unless otherwise announced, it will be a 2 hour examination.

The examination will (1) fairly reflect the material treated in the course; (2) test skills of organization of facts, analysis and statement of issues, and their resolution; (3) test theoretical knowledge, practical skills and the ability to address specific problems in a successful manner; and (4) test ability to function and perform under time pressure.

For an essay question where a problem is a given, a superior answer will not only state applicable rules and identify issues, but will apply the rules to the issues in the context of the factual problem to obtain a principled resolution.

The examination will require familiarity with the doctrinal materials covered relating to the reading assignments, current Articles 1, 2, 2A, Revised Article 2, and 2A of the Uniform Commercial Code, as well as assigned sections of Articles 5 and 7, any designated state and federal statutes from the statutory supplements, the United Nations Convention on the International Sale of Goods, and INCOTERMS. In addition, students will be responsible for material addressed in class, handouts, outside assignments, and casebook assignments whether or not discussed in class.

If the Law School makes available a program enabling examinations to be taken by computer, students may use it.

Post-Examination Review. No student may communicate with the instructor about the examination before the grade key is released. All examination reviews must be conducted according to a written procedure that will be posted. Interviews with the instructor will only be given pursuant to this procedure.

4. Materials Permitted to be Taken into Examination

Only the following materials may be taken into the examination: Selected Commercial Statutes, the above-referenced summary of INCOTERMS, and other statutory handouts, if any. In order to facilitate use of UCC Article 2, a physically separate photocopy of its Table of Contents may be made and used.

These materials may be annotated. “Annotated” means the emphasis of certain portions of the material or its explanation in the material itself by cross-references to other statutory or regulatory provisions, by a comment or gloss, or by reference to a case or hypothetical. The focus of the annotation should be on the meaning of the particular provision or section being annotated. The insertion in the statutory material of outlines, extensive lists of questions and answers, or general information does not constitute an annotation that may be used on the examination.

The INCOTERMS may be listed on a separate paper together with their title and a brief explanation of the scope of each term.

No other materials may be brought into the examination.

Any questions regarding the meaning or interpretation of this policy must be given to the instructor in writing so as to avoid confusion and all answers (as well as questions) will be publicly posted. So as to permit all students to benefit from this process, the deadline for such questions is one day prior to the last class for the semester.

5. Class Participation, Assignments, & Outside Assignments

It is expected that students will be regularly prepared for class as part of the attendance requirements. Reading assignments will be given in class and posted from time to time. The assignments will focus on the pages on which the cases appear but students would be well advised to read accompanying textual material as well. Preparation includes the completion of class assignments.

6. Attendance

A seating chart will be circulated at the first class. Students are responsible for selecting a seat. Attendance will be taken at the beginning of each class based on this chart. Any student not seated in the seat selected at the time class is scheduled to begin will be marked absent. Anyone coming to class after attendance has been taken is responsible after class for advising the instructor of his or her presence. At the discretion of the instructor, an attendance sheet may be circulated for signature in which case it is governed by the Honor Code and only the student named may indicate his or her presence by signing.

At least twenty percent of the examination will be taken from material covered in class and not reflected in the text or materials handed out.

The maximum number of absences permitted will be allowed for this course under law school regulations. As it is assumed that all students will conduct themselves as professionals, there is no need to advise the instructor regarding an absence unless assistance is required.

Cancelled classes will be announced in advance in class whenever possible and notices posted in accordance with University policies. To the extent possible, make-up classes will be scheduled as extensions of regularly scheduled classes. Please be prepared to discuss possible make-up classes at the first class session.

7. Notices

Notices will be posted in accordance with Law School regulations. Unless a student requests otherwise in writing, all messages will be sent via email. Students are responsible for informing the instructor of a functioning email address or addresses at the first class on the list provided and are responsible for giving notice of any changes in email addresses.

8. Office Hours and Individual Appointments

Professor Byrne warmly welcomes any questions relating to the course or otherwise. He will be available regularly for office hours during the following times:

30 minutes before and after class

If these times are inconvenient, he is available by appointment. He can be contacted through the Ms. Yen Kha, his faculty secretary at (703) 993-8065 or ykha@gmu.edu.

- 9. Topics to be studied:** The Law Merchant
Codification of Commercial Law
Limits to Commercial Law: consumer and bankruptcy legislation
International Commercial Law
Scope of UCC Article 2 and the Sales Convention
Formation Issues and Gap Fillers
Unconscionability and Good Faith
The Relationship of the Sales Convention to Domestic Law
Title
The Doctrine of Good Faith Purchase
Statute of Limitations
Warranties of Quality, Limitations, and Disclaimers
Performance
Nonperformance

10. Pace of Class Reading Assignments

The class will be conducted with a view toward mastery of concepts and techniques rather than coverage of preset materials at a preordained pace. Because every class session is different, the assignment for the next week will be announced at the end of class but generally will be approximately 35 pages from the end of the previous assignment. Special assignments or those due to be handed in will be both announced in class and posted.