Syllabus for Sales  
Spring 2015  
Professor Byrne  
[updated as of 15 December 2014]

1. Summary

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

In order to better acquaint students with the realities of the legal issues related to the purchase and sale of goods, this course will include exercises on the drafting of contract clauses and various pleadings and other papers in connection with litigation regarding discrete problems in addition to the traditional reading and discussion of cases.

Because this approach is new, there will be a degree of experimentation in the evolution of the course.

There will be regular reading assignments but they will be discussed to the extent possible in the context of drafting of contract provisions and litigation. The class will be divided into groups who are assigned specific tasks and clients with respect to transaction and litigation drafting. In addition, cases will be assigned to students from the case book who will be expected to report on them to the class, indicating the significance of the case and its impact on the law of Sales and the various drafting exercises.

2. Materials to be used for class are:

(a) Case Materials

The case materials are contained in Reitz, Sales Transactions: Domestic and International Law (4th Ed.). The author of this book and Professor Honnold, co-author of the prior editions were the leading figures in this field. Professor Reitz remains active in it, and the case book remains the leading book in the field.

Supplementary materials will be used for several units of Sales. They will be made available several weeks before the particular unit.

(b) Statutes and Restatements
It will be necessary to have the Model UCC with Official Comments for reference to Articles 1, 2 (including the 2003 revision to UCC Article 2), 2A, 7, and the United Nations Convention on Contracts for the International Sale of Goods (CISG or the Vienna Convention). These are available in the current edition of the Foundation Press Commercial and Debtor-Creditor Law: Selected Statutes or the West Selected Commercial Statutes. Please note that any edition prior to 2004 does not contain Revised UCC Article 2.

It will also be necessary to be familiar with INCOTERMS 2010. They are published by the International Chamber of Commerce. The text and explanatory materials are on reserve. You will be provided with a summary which you may annotate and which should be taken into the examination since the questions will be based on the assumption that the student has access to them during the examination.

(c) Supplemental 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. It is on reserve.

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 has been updated in a new edition to cover Revised Article 2. Both are available in the GMUSL library on the reserve shelf.

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

3. Objectives

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 materials encourage a comparison of U.S. domestic sales law with international sales law in the form of the UN CISG, to which the U.S. is a party and to which every transaction between contracting States is subject unless the Convention is expressly excluded.
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.

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.

4. Grades & Examination

Grading will be based in part of an examination which will be partially in writing (50%) based on a one hour essay examination and partially on a *vive voce* 15 minute interview (25%). It will also take into account the work done in the drafting exercises and in reporting on cases (25%).

The final examination will take place as scheduled on 27 April 2015, beginning at 6:00 PM (18.00 hours). Unless otherwise announced, it will be a one (1) 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 of the Written Examination and of the Grades. After the examination is turned in, no student may communicate with the instructor about it before the grade key is released. All examination reviews must be conducted according to a written procedure that will be posted. Post Examination Interviews with the instructor will only be given pursuant to this procedure.
The *vive voce* examination will consist of a 15 minute interview which will account for 25% of the grade. Questions will be based on questions or answers in the written examination, drafting exercises, or class materials on which the examinee has reported. The interview will be scheduled at a time to be announced. In addition to Professor Byrne, practicing attorneys may be present during the examination.

The grade will be based on the substantive grasp of the material and the ability of the student to address the question in a professional manner.

**5. Materials Permitted to be Taken into Examination**

Only the following materials may be taken into the written and *viva voce* 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.

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 the last class for the semester.

**6. Class Participation, Readings, and Reports on the Cases**

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 not focus on the cases appearing in the assigned pages but on the accompanying textual material.

Specific students will be assigned the cases on which they are to report to the class. As indicated, these reports will be considered in assigning 25% of the grade. Qualities measured will include professionalism, mastery of the case, analytical skills, and ability to respond to questions. From time to time, protocols regarding the reports will be published on TWEN.
7. Drafting Exercises

Coupled with reading and discussing appellate cases will be drafting exercises which, as indicated, will be factored into the grading process. There will be two drafting exercises, one focused on litigation and the other on transactional drafting. The exercises will be explained in detailed Memos. Sign Up Sheets will be provided in which students will either select or be assigned a client.

The due dates for the drafting assignments will be announced and, to the extent possible, coordinated with the class in which the substantive material is covered in the readings.

8. 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.

For good cause to be determined by the instructor, a special assignment may be undertaken in lieu of attendance to the extent permitted by Law School Academic Regulations. A petition for this assignment must be in writing and the assignment must be submitted prior to the last day of class.

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.

9. 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.
Assignments, notices, and announcements will be posted on TWEN. All students are required to register on TWEN.

10. 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. Katie Hickey, his faculty secretary at (703) 993-8271 or khickey1@gmu.edu. His email address is jbyrne@iiblp.org.

11. 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 UN 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

12. 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. For guidance purposes, a Tentative Schedule will be issued. However, 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. Case reporting and drafting assignments will be both announced in class and posted.