Course Introduction and Syllabus
Introduction to Commercial Law (Law 517)

Professor Brittingham
Fall Semester, 2012

NOTICE: As you know, Professor Jennifer Camero was scheduled to teach this course. However, Professor Camero has a health problem that prevents her from teaching and I have agreed to step in to teach the class. I first taught this class spring semester last year, and recently-retired Professor R.J. Robertson, who taught this course for many years, graciously helped me in my preparation by providing his syllabus. I relied heavily upon Professor Robertson’s syllabus to prepare this syllabus. In fact, in some places I copied Professor Robertson’s syllabus word-for-word. I want to thank Professor Robertson for his help and for sharing his syllabus.

1. **Required Texts:** You must purchase two books:

   (a) **LYNN M. LOPUCKI, ELIZABETH WARREN, DANIEL KEATING & RONALD MANN, COMMERCIAL TRANSACTIONS: A SYSTEMS APPROACH** (4th edition) (Aspen Law & Business 2009). This is an excellent book for an introductory commercial law class. The book does a good job of explaining the “system” in which the rules of commercial law have developed. If you understand the “system,” the rules of commercial law should make more sense to you. In order to understand the system, the book places the rules of commercial law in the context of the commercial environment where the rules operate.

   The focus of this book is not on cases. We will spend little, if any, class time on the cases, which are included merely as illustrations of the rules discussed in the narrative. Instead, your focus should be on the problems assigned for the day. The problems are of three types. Most are “statute-readers”—i.e., they require you to consult the appropriate sections of the Uniform Commercial Code (“UCC”) and apply those statutory provisions to the facts in the problem to answer the questions asked. Others are “practical” or “lawyering” in nature—i.e., they ask you to evaluate the legal position of the actors in the problem and give them advice about how to proceed. This advice requires not only understanding how the UCC rules apply, but also considerations of economic and relational issues about what would be the best “practical” course of action for the client. Because most of you will be doing this about a year from now, I hope these problems give you a feel for the lawyer’s craft of blending intellectual analysis and practical advice. Finally, some of the problems are “policy-based”—i.e., they ask you to examine the rules of the UCC and determine what policy goals are advanced by those rules, who the winners and losers are likely to be when those rules are applied, and what these results tell us about our commercial law system.

   (b) **SELECTED COMMERCIAL STATUTES OR SOME OTHER VERSION OF STATUTES THAT CONTAINS THE UCC (WITH COMMENTS) AND THE VARIOUS STATUTES THAT WE WILL DISCUSS IN CLASS,**
DO NOT purchase the edition of Selected Commercial Statutes for Sales and Contracts Courses or the edition of Selected Commercial Statutes for Payment System Courses, because these abridged editions lack many of the federal statutes and regulations that we will study this semester.

In order to understand commercial law, you must constantly refer to the sections of the UCC in question. As you read the assigned material in the LoPucki, Warren book, whenever the book cites to a section of the UCC, you should put down the LoPucki, Warren book, pick up Selected Commercial Statutes, and read the section cited, along with the relevant Official Comments.

There are other statutory supplements that contain some of the materials in Selected Commercial Statutes, but they will not contain some recent amendments to some of the federal laws we will study (including amendments to the regulations on debit and credit cards) and using other statutory supplements will make it virtually impossible for you to follow class discussions because the arrangements of statutes and the page numbers are significantly different. Hence, you are required to purchase the most recent (2012) edition of Selected Commercial Statutes.

For the quizzes and examinations in this course, you will be allowed to refer to your copy of the edition of Selected Commercial Statutes and you may write anything you want in that volume. However, you will NOT be allowed to bring in any other book, compilation of statutes, or notes, etc.

2. Assignments. With rare exceptions, we will cover one assignment in the LoPucki, Warren book each day. You will be expected to read approximately 25-30 pages of material and prepare four to six problems based on that material for each class period. I will be ruthless with respect to ending class and moving on to the next assignment at the beginning of the next class. If we do not discuss all of the problems assigned for a day, you should still be certain that you understand the answer to those we don’t discuss. If you have questions about those omitted problems, you may come by my office to talk about them or e-mail me with questions about them, but we will spend no further class time on them. **The fact that we do not cover an assigned problem in class does not relieve you from responsibility for the subject matter of that problem on the examinations.**

3. TWEN Access. You are required to have access to The West Educational Network (“TWEN”) to enroll and participate in this class. I will post assignments, questions and other materials on the course TWEN page.

4. Preparation. I have few illusions about third-year law students and their level of preparation, but you should have no illusions about my expectations from you in this class. Because we will be dealing with a huge amount of material, my usual method of calling on students at random is not likely to work very well. We do not have the time to waste on some marginally-prepared student trying to think his way through a problem for the first time in class.

5. Attendance and Preparation/Scheduling of Make-Up Classes. Attendance will be taken daily on an attendance sheet circulated during class. Your genuine signature on the attendance
sheet constitutes a representation that you have read the assigned material and are prepared to discuss the material in an intelligent fashion. If you are unprepared for class, please advise me of that fact before class commences. The presence or absence of your genuine signature on the attendance sheet constitutes a conclusive presumption of your presence or absence during that class period. Under the rules of the School of Law, you are normally entitled to a number of absences equaling three times the number of credit hours. However, in this class you may accumulate no more than nine (9) absences in this class. If you have more than nine (9) absences, as reflected on the attendance sheets, you will be withdrawn from the class. I reserve the right to require greater evidence of preparation—e.g., written answers to problems, if the level of class preparation becomes unsatisfactory.

I continue to adhere to my policy about timely arrival in class—I expect you to be in your seat and ready to participate at the time the class is to begin. If you come in late (and by “late,” I mean after I have begun class, regardless of the time on your watch, my watch, the clock on the wall, Greenwich Mean Time, etc.) you will be counted as absent and will not be allowed to sign the attendance sheet. I regret the need to do this in an upperclass course, because I do understand that students have legitimate needs to be elsewhere on class days and may unavoidably run a few minutes late on occasion. However, when I have relaxed this policy in the past, students have abused it by sauntering into class whenever it was convenient for them, causing inevitable disruption and distraction. Accordingly, the no-tardiness policy is in effect.

No whining.

Finally, we may need to make-up classes this semester for Labor Day and other things that interfere. I will let you know if and when that is necessary.

I understand that all of our regularly-scheduled classes are videotaped and automatically transferred to two computers in the student computer lab in the law library. If you miss a regularly-scheduled class, or if had some difficulty understanding the material covered during a class, you can view the video of that class in the computer lab.

6. **Recommended Reading.** There are a number of secondary sources in this area which you may wish to consult from time to time if you have problems with a topic or if you desire more detailed information about a topic. Some of these are:

**In general:**

James J. White & Robert S. Summers, *Uniform Commercial Code* (6th ed. 2010). This is an excellent hornbook; it is basic enough for student use, but also detailed enough to be a good reference source when you are in practice.

Although the LoPucki, Warren book does a generally good job of helping students cope with this problem, Professor Dolan’s excellent book fills this gap by providing an overview of how and why commercial transactions are structured the way they are.

Sales Systems (Assignments 1-20):

**James Brook, Sales and Leases: Examples and Illustrations** (Aspen Law & Business 5th ed. 2009). A workbook that mirrors the approach of the LoPucki, Warren book--textual narratives followed by a series of problems. The nice thing about Professor Brook’s book is that it also contains answers to the problems. It is also the funniest secondary source in commercial law. (Earlier editions are just as good as the current one.)


Financial Systems (Assignments 21-41):

**James Brook, Payment Systems: Examples and Illustrations** (Aspen Law & Business 2d ed. 2004). Much like his book on Sales and Leases, this student-oriented book on negotiable instruments and payment systems is well-organized, has problems that might serve as excellent examples of potential examination questions, and is clever in the bargain.

**William H. Lawrence, Understanding Negotiable Instruments and Payment Systems** (Lexis/Nexis 2002). This book is well-organized and covers most of the material we will cover in the class, including credit cards and consumer electronic funds transfers.


**James J. White & Robert S. Summers, Principles of Payment Systems** (Thomson West 2008). This new book, part of the Concise Hornbook Series from West, is an edited version of the authors’ treatment of payment systems in their popular hornbook, cited above. The book’s strengths are its treatment of the principles of negotiability and holder-in-due-course status. The book contains a nice discussion of letters of credit, which we do not cover in the course. It may have too much detail for students seeking to learn just the basics of the law of payment systems.

Secured Credit (Assignments 42-68):
JAMES BROOK, SECURED TRANSACTIONS: EXAMPLES AND ILLUSTRATIONS (Aspen Law & Business 2d ed. 2002). Much like his Sales and Payment Systems books, Professor Brook’s book has helpful text, problems, and answers. Not quite as funny as the Sales book, but you have to consider the material with which he has to work.

SCOTT J. BURNHAM, THE GLANNON GUIDE TO SECURED TRANSACTIONS (Wolters Kluwer 2007). This uses the Glannon technique of readings interspersed with objective questions to test your understanding of the readings.

WILLIAM H. LAWRENCE, WILLIAM H. HENNING, & R. WILSON FREYERMUTH, UNDERSTANDING SECURED TRANSACTIONS (Matthew Bender 4th ed. 2007). This is a very helpful, straightforward student aid. It is well-organized, has a good index, and lots of case citations.

7. Scope of the Course. We will cover three principal aspects of commercial law under the UCC: (negotiable instruments and check collections under Articles 3 and 4; and secured transactions in personal property under Article 9, and sales of goods under Article 2 (if there is time; I try to avoid material that you covered extensively in first year contracts)). We will not cover leases under Article 2A, letters of credit under Article 5, bulk sales under Article 6 (which has been repealed in Illinois), documents of title under Article 7, or investment securities under Article 8 (other than possibly one class on “securitization”). We will also cover federal and state laws on consumer electronic funds transfers (a/k/a debit cards), credit cards, a credit enhancement device known as a “guaranty,” and the suretyship issues attendant to guaranties. In addition, in conjunction with our study of Article 9, we will spend some time on secured transactions in real estate (mortgages) and the effect of bankruptcy on secured and unsecured creditors.

8. THE KEY TO SUCCESS. For reasons that I have never understood, students approach a class involving the UCC with an attitude more appropriately reserved for a trip to the dentist. In essence, this class involves the understanding of a comprehensive statutory scheme governing certain types of commercial transactions. The answers to most all questions can be found by a careful reading of the UCC. Therefore, it is imperative to READ THE RELEVANT PROVISIONS OF THE CODE in conjunction with the readings assigned in the casebook. In addition to reading the relevant sections of the Code, you should also read the Official Comments following those sections and be sure that you understand the definitions of each of the terms used in each section.

When I ask “tell me what section X says,” the appropriate response is to look at section X in Selected Commercial Statutes and then read it aloud. Don’t try to paraphrase it or provide your interpretation of what it means. The principal legal skill involved in this class is statutory interpretation and statutory interpretation must start with the exact text of the statute.

The UCC is periodically revised. Article 9 was the subject of extensive revision approved by the National Conference of Commissioners on Uniform State Laws (“NCCUSL”) and the American
Law Institute ("ALI") (collectively, the "Sponsoring Organizations") in 1999. The 1999 revision has been adopted in all 50 states. We will focus on revised Article 9.

Article 1 (containing definitions and general principles) has also been amended. It has been adopted in 37 states, including Illinois. Accordingly, we will refer to the amended version of Article 1 this semester.

In the event that we cover Article 2: The Sponsoring Organizations proposed an amended Article 2 of the UCC in 2003. However, amended Article 2 has not been adopted in any state and seems to be, for all practical purposes, "dead on arrival." Accordingly, although I may mention some of the more significant amendments to Article 2, you will not be responsible for anything about amended Article 2 on any examination. Instead, we will study the existing (2002) version of Article 2.

Please understand that the volume of reading in this class is very significant. As the semester progresses, the statutes become much more complicated and deal with commercial transactions with which some of you are unfamiliar. I know that most faculty members say this about most courses, but it is especially true for this course--do not fall behind in this class because each day’s assignment is dependent on an understanding of the previous day’s materials.

9. Electronic devices: I am very frustrated by the lack of attention many students pay in class. For reasons that I will explain at our first class, I do not want you to use your computers in class. Of course, I prohibit the use of a cell phone in class for any purpose. The penalty for violation of this rule will be severe: first, removal from the particular class session; second, removal from the course.

10. Grading: I have not yet decided how to grade this class. We’ll discuss this at the first class.

11. Office Hours: My office is Room 0211, on the second floor with a window overlooking the formal lounge. I have not established formal office hours because I am nearly always in my office (although I may yet establish office hours). I will likely be here most days. I prefer NOT to meet with students in the mornings on Monday thru Thursday, as I will need that time to make final preparations for class. Otherwise, feel free to stop in anytime.

Thank you for enrolling in this class, and I look forward to working with you during the weeks that follow.

OTHER IMPORTANT STUFF:

Emergency Procedures. Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT’s website at
www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in Emergency Response Guideline pamphlet. Know how to respond to each type of emergency.

Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. **It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency.** The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.