COURSE OVERVIEW

Transactions based on credit are the reality of today’s economy, both in the consumer sector and in business. There are real benefits to secured credit for both the lender and the borrower, but also many traps for the unwary and potential negative impacts on the larger economic system. A working knowledge of secured credit – why it is useful, how it is accomplished, and when it is enforced – is fundamentally necessary to all law students who aspire to advise individuals who borrow, individuals who lend, and companies who transact on credit.

In this course, you will:

- read and apply statutory text from Article 9 of the UCC and the Bankruptcy Code;
- learn the requirements for a legally enforceable security interest;
- understand the import and impact of perfection for maintaining security interests in the face of competing claims;
- gain knowledge useful for passing the secured transactions portion of the bar exam; and
- learn to identify ethical issues arising in the context of the making and enforcing of secured transactions.

In many ways, the law of secured transactions functions as a practical, code-driven application of the law of contracts. You will be able to draw on what
you learned in your 1L curriculum and build upon your base of knowledge to establish a more sophisticated understanding of how the conduct of business responds to legal constraints.

**COURSE MATERIALS**

The following materials are *required* for the course:

- **Casebook**: WILLIAM D. WARREN & STEVEN D. WALT, SECURED TRANSACTIONS IN PERSONAL PROPERTY (9th ed.), Foundation Press.


You should not feel obligated to search out additional study materials, but if you find them helpful, you may also wish to consult the library’s online study tools, available at [http://libraryguides.missouri.edu/StudyAids](http://libraryguides.missouri.edu/StudyAids). The library also has some hard copy treatises available. Titles I would recommend include:

- P. BARRON & M. WESSMAN, SECURED TRANSACTIONS PROBLEMS AND MATERIALS, West Academic Publishing;
- J. BROOK, SECURED TRANSACTIONS EXAMPLES & EXPLANATIONS, Wolters Kluwer Law & Business;
- R. HAGEDORN, SECURED TRANSACTION IN A NUTSHELL, Thomson West;
- B. MARKELL & T. ZINNECKER, QUESTIONS & ANSWERS: SECURED TRANSACTIONS, LexisNexis;
- S. SEPINUCK, SECURED TRANSACTIONS EXAM PRO, Thomson West;
- J. WHITE & R. SUMMERS, PRINCIPLES OF SECURED TRANSACTIONS CONCISE HORNBOOKS, Thomson West.

**ATTENDANCE AND CLASSROOM PARTICIPATION**

**Attendance:**

I will send around an attendance sheet at the beginning of every regularly scheduled class. (Attendance will not be taken at makeup classes.) Unexpected absences are sometimes necessary; accordingly, every student will have a total of four automatically excused absences during the semester. This means that you are not required and should not feel obligated to explain these absences or to
notify me in advance. More than four absences – for whatever reason – will result in the reduction of your grade, as explained below in the grading section.

Following the last class, if desired, we will also conduct a two-hour final review session, where you will have the opportunity to ask questions and review practice exams. This will be held either on Friday, May 3 or Saturday, May 4, depending on the preferences of the class as a whole.

Class participation:

In my experience, students get the most out of the classroom experience when everyone is engaged in a structured dialogue. Each student should anticipate being called on at least once every class to give thoughts, explain a case, or interpret a statutory provision. You should come to class prepared, attentive, alert, and ready to answer questions pertaining to the discussion. This form of participation may be more demanding than simply sitting and listening to a lecture, but it will also provide a bigger educational payout for you and your fellow students. For an interesting article on the benefits of so-called “active learning” over traditional lecture, see Craig Lambert, *Twilight of the Lecture*, Harvard Magazine, March-April 2012, available at <<http://harvardmagazine.com/2012/03/twilight-of-the-lecture>>.

I expect that you will do the reading assignment and be prepared to discuss it in class. If you are not prepared to participate in class discussion, (i.e., because you have not done the reading, have developed laryngitis, or intend to spend the class pretending to listen while you answer emails) you may sign a sheet in the front of the class and take a “pass” for the day. You may sign the pass sheet *twice* without it affecting your grade, as explained below in the grading section. Please note that in some classes we may not make it through all the assigned reading for that day. This information will be covered at the beginning of the next class period. Accordingly, if our class discussion does not cover all the material that has been assigned for a particular day, you should review the remaining material for the following class period (in addition to that day’s assigned reading) so that you are prepared to discuss it.

If you do not sign the pass sheet and are not prepared in class, your grade may be affected. Note that I do not punish students for wrong answers – ever. We all occasionally make mistakes when asked to think on our feet, and wrong answers are often a valuable teaching tool for both the student and the class at large. Part of the goal of active learning is to encourage facility in giving
answers in front of a group, even when you are unsure that the answer is correct. However, when a student demonstrates that they have neglected to prepare and accordingly are wasting the time of the entire class, or otherwise demonstrates blatant disrespect to me or to other class members, I may determine that a reduction of the final grade is appropriate. On the flip side, students that consistently demonstrate thoughtful contributions to the class discussion may warrant an upward adjustment of their grades. I reserve the right to make these determinations.

I intend to cover the topics *loosely* in order of the outline below:

I. Introduction to Secured Credit  
a. Why do we need it?  
b. What does it do?  
c. Is it fair?  

II. Attachment (or How Credit Becomes Secured) - § 9-203(b)  
a. The Security Agreement  
i. Composite document rule  
ii. Description of collateral  
1. After-acquired collateral  
2. Proceeds  
b. Value  
c. Rights in Collateral  

III. Perfection  
a. By Filing  
i. The filing system  
ii. Where to file  
iii. The financing statement  
1. Indication of collateral  
2. Name of debtor  
iv. Post-filing changes  
b. By Possession  
i. Special rules for consumer goods  
c. By Control  
d. By Certificate of Title  

IV. Priority  
a. First to File Rule  
i. Future advances  
b. Purchase Money Priority  
i. Special rule for inventory  
ii. Special rule for consumer goods  
c. Lien Creditors  
d. Special Rules by Collateral  
i. Buyers of goods  
1. Ordinary course  
2. Double debtors  
ii. Rights to payment  
iii. Accounts and general intangibles  
iv. Chattel paper and instruments  
v. Deposit accounts  
vi. Cash proceeds  
e. Federal Tax Liens  

V. Default and Enforcement  
a. What is Default?  
b. Repossession  
i. Self-help  
ii. Breach of the peace  
iii. Judicial action  
c. Disposition of Collateral  
i. Notification  
ii. Commercially reasonable disposition  
iii. Deficiency  
d. Effect on Third Parties  

VI. Lease vs. Security Interest  
a. Bright Line Test  
b. Meaningful Residual Interest  

VII. Fixtures  
a. Fixture Filings  
b. Priority  

VIII. Bankruptcy  
a. Overview  
b. Secured Claims by Chapter  
c. Trustee Avoidance Powers  
i. Preferences  
ii. Fraudulent Conveyance
A tentative reading schedule is attached to this syllabus for your review, as a general sense of where we will be heading in the course. I reserve the right to alter this schedule at my discretion.

I expect to cancel class on February 7th for a prescheduled work trip. Our makeup will be scheduled for the 1:00-1:50 time block on February 12th, immediately following our class. On March 21, the Bankruptcy Court for the Western District of Missouri will be holding court in the moot courtroom during our designated class period. Students are encouraged to listen in to court proceedings during that time period, as bankruptcy proceedings frequently implicate, and are informed by, the law of secured transactions. Attendance to court proceedings will constitute class attendance for that day.

OFFICE HOURS

Because I have small children, my time in the office can be unpredictable. Accordingly, rather than assign set office hours, I will maintain an open door policy, meaning I will be generally available to visit with students while in the office. (Even if my door is shut.) On occasion, I may be tied up and unable to entertain student questions, in which case I will try to schedule an alternative time. It is always a good idea to contact me in advance if you would like to drop by with questions or thoughts. My office phone number is (573) 882-3914. My email address is gotbergb@missouri.edu.

FINAL EXAM

The final exam will take place from 1:30 – 4:30pm on May 7, 2019. You will be allowed to bring your book, the supplement, and whatever notes you would like to reference on the exam. You should anticipate multiple essay questions (usually three or four) that will cover the breadth of the class content. The questions will largely follow the structure of essay questions you would expect to see on the bar exam. Points will be assigned based on your recognition of problems, your understanding of the law, and your ability to apply it to the problem at issue.

GRADING

Your score on the final exam will determine your grade in this class. However, I will adjust grades to account for the attendance policy stated above.
with the reduction of one grade point per absence for four or more absences, and for class participation with the reduction of one grade point per “pass” after two freebies. I also reserve the right to adjust grades to reflect extremely good or extremely poor classroom participation, as referenced above.

**INFORMATION REGARDING DISABILITIES**

If you anticipate barriers related to the format or requirements of this course, if you have emergency medical information to share, or if you need to make arrangements in case the building must be evacuated, please contact Associate Dean David Mitchell as soon as possible.

If disability related accommodations are necessary (for example, a note taker, captioning), please register with the Disability Center ([http://disabilitycenter.missouri.edu](http://disabilitycenter.missouri.edu)), S5 Memorial Union, 573.882.4696, and then notify Dean Mitchell or Law School Registrar Denise Boessen of your eligibility for reasonable accommodations. *(Please do not discuss examination accommodations with me. Notice of special accommodations may impair the “blind grading” policy we use at the law school.)* For other MU resources for persons with disabilities, click on “Disability Resources” on the MU homepage.
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<thead>
<tr>
<th>Date</th>
<th>Reading Title</th>
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<td>Description of Collateral 23-29 and Handout</td>
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<td><em><strong>Please attend Bankruptcy Court hearings in lieu of class</strong></em></td>
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