NOTICE TO STUDENTS WITH DISABILITIES: The information contained in this syllabus is available in alternative formats upon request. If you have a disability and need accommodation, please notify me or Associate Dean Gely as soon as possible.

To request academic accommodations (for example, a notetaker), students must also register with Disability Services, S5 Memorial Union, 882-4696. It is the campus office responsible for reviewing documentation provided by students requesting academic accommodations, and for accommodations planning in cooperation with students and instructors, as needed and consistent with course requirements.

For other MU resources for students with disabilities, see http://disabilityservices.missouri.edu.

SECURED TRANSACTIONS (Law 5885)
Fall Semester 2013
Prof. Freyermuth
MTW 2:00 pm - 2:50 pm, Room 6
Office: 215 Law School
Office Phone: 882-1105
E-mail: freyermuthr@missouri.edu

COURSE INFORMATION AND POLICIES

TEXT AND MATERIALS: Required materials for this class include:

- **Casebook:** LYNN LOPUCKI & ELIZABETH WARREN, SECURED CREDIT: A SYSTEMS APPROACH (7th ed.) (Aspen).

- **Statute Volume:** You may use any of the following: SELECTED COMMERCIAL STATUTES (West) or COMMERCIAL LAW: SELECTED STATUTES (Foundation Press). You do not need to buy a 2013 edition, you may use a 2012 edition if you want to purchase a used one that’s in good condition. Do not get an edition earlier than 2012, however, as it is not likely to include the most recent amendments to Article 9. [If you are also in Prof. Berry’s Sales and Leases course, you can use the same statute volume for both courses.]

There are a variety of supplemental materials available for this course. Matthew Bender/LEXIS has a paperback student guide, WILLIAM H. LAWRENCE, WILLIAM H. HENNING & R. WILSON FREYERMUTH, UNDERSTANDING SECURED TRANSACTIONS (5th ed.). This text is available in the bookstore; it is not required for the course; however, many former students have found it helpful in accompanying their study of the course material. I have also placed two copies of the text on library reserve.

The LoPucki and Warren casebook is broken up into Assignments, each including a Problem Set at the end. We will not cover all 40 Assignments; at the end of this Syllabus, there is a list of the Assignments that I expect to cover and the order in which the course will cover them. Many
Assignments will be addressed in one class period; others in multiple class periods. For each Assignment, the problems in the Problem Set will provide the basis for class discussion. Each Assignment in the Casebook references numerous sections/subsections of Article 9; for each Assignment, you will need to diligently read (and absorb) the text and comments for these statutory sections and subsections.

**ATTENDANCE POLICY:** According to American Bar Association accreditation guidelines, class attendance is required and expected of all students. I expect students to be present and ready to begin class promptly at 2:00 pm. Any student that misses more than twelve (12) regularly scheduled classes during the semester will be withdrawn from the course.

From time to time, you may have to miss a class because of illness, family responsibilities, job interviews, or the like. I appreciate it when you can provide me with prior notice of your anticipated absence (an e-mail message is fine) or, in cases of emergency when notice prior to class is impossible, as promptly as possible afterwards. [In practice, clients and colleagues will expect such courtesy, so I encourage you to get in the habit of providing notice when you must miss class.]

Keep in mind (for this class and others) that many of you will need one or more of your professors to provide valuable references for you in the future — whether for the bar examiners or for future employers. If you are present and prepared for class discussion, and provide your professors with prior notice on the rare occasions when you must be absent, your professors will take note of your diligence and discipline, and will respond to inquiries by observing how diligently and seriously you pursued your studies. [Correspondingly, if you are often absent without explanation or excuse, your professors take note of that, too.]

**COURSE GRADE:** Grades in this course will be based upon the following:

A. **Final Exam.** The final will be an in-class examination approximately 3 hours in length. You will be able to bring your Code Book into the exam, as well as an outline that you created (or contributed to in a study group). The exam will consist of multiple choice questions and short essay questions.

B. **Class Participation.** I encourage and expect participation in class discussion. I reserve the right to add up to two (2) points to a student’s final course grade for consistent and outstanding participation in class discussion in class. I reserve the right to subtract up to two (2) points from a student’s final course average for consistent unpreparedness. I will also deduct points from a student’s final course grade for failure to complete the required multiple choice questions (explained below).

**COURSE WEB PAGE:** I have established a webpage for this course. You can use the URL [http://www.law.missouri.edu/freyermuth/art9/fall2013/index.html](http://www.law.missouri.edu/freyermuth/art9/fall2013/index.html) to reach the course Web page. A copy of this syllabus is posted on the Web page, should you misplace this copy.

The webpage contains all relevant information about the course, and you should therefore check the webpage prior to each class for the following:
The relevant reading assignment for each scheduled class period will be posted on the webpage at least one week prior to that scheduled class. Past assignments are archived on the webpage.

During some classes, I may have Powerpoint slides that accompany class discussion for a particular Assignment. As each Assignment is completed, I will post any slides related to that Assignment on the webpage. You may find that this reduces your need to take notes and helps you to pay closer attention to class discussion.

From time to time I will post memos on the webpage; often, these memos clarify a point raised in a previous class or respond to a question raised after class or in my office.

On some occasions, there may be specific issues or Code sections on which I choose not to spend class discussion time; in those cases, I will post a memo with any additional explanation that is necessary for your understanding of those issues.

All student-drafted multiple choice questions (see below) will be posted onto the webpage.

Finally, announcements about class cancellations and reschedulings will also be posted on the webpage.

**MULTIPLE CHOICE QUESTIONS:** As stated above, the final exam will include multiple choice questions. During the semester, as part of class participation, each student must draft (and prepare answers and explanations for) **three (3) original** multiple choice questions designed to test knowledge of the course material. These questions will be posted on the class webpage, to provide members of the class with questions to assist in their review prior to the exam. The questions will be due on rolling dates (with the class divided alphabetically by last name). At the end of this syllabus, I have included a memo that explains how you should prepare and send your questions/explanations to me, and provides a sample question/explanation to give you an idea what is expected. That memo also includes the due dates for your questions.

**Note:** At least two (2) of the multiple choice questions on the final exam will be questions drafted by members of this class (although I reserve the right to change the names of the parties and/or make grammatical/spelling corrections as necessary).

If you submit a question that is factually ambiguous or for which your explanations are incorrect or insufficient, I will send you an e-mail reply pointing out the error and asking you to correct and resubmit the question and your explanations. [The most important part of this exercise is that it gives me a good sense of how well students are understanding the material, and it allows me to correct misunderstandings about the material earlier rather than later.]

If you fail to submit any question in a timely fashion or fail to correct and resubmit any question until it is suitable for posting on the class website, your grade will be **reduced by 1 point** for that question. [Thus, not timely submitting any questions would result in a reduction of 3 points in your final grade.]
ACADEMIC INTEGRITY: Academic integrity is fundamental to the activities and principles of the School of Law. All members of the law school community must be confident that each person’s work has been responsibly and honorably acquired, developed, and presented. Any effort to gain an advantage not given to all students is dishonest whether or not the effort is successful. The law school community regards breaches of the School of Law’s Honor Code as extremely serious matters. Sanctions for such a breach may include academic sanctions from me, including failing the course for any violation, to disciplinary sanctions ranging from probation to expulsion. If you have any doubt about whether your work is or would be consistent with the Honor Code, consult me.

Note: According to the instructions found later in this Syllabus, your multiple choice questions are to be original questions. Thus, plagiarizing a question from an already published source is a violation of the Honor Code.

ASSIGNMENTS: Each week (before Friday), I will post daily assignments for the following week’s classes on the webpage. Prior to each class, you should have read and be prepared to discuss (a) the relevant Assignment from the casebook, (b) all relevant UCC sections and comments for each Code section covered in the Assignment, and (c) each of the problems in the Problem Set for the pertinent Assignment (unless the posted instructions tell you to omit a particular problem).

Here is a tentative list of the Assignments I expect to cover. Some will take one class, and others will take multiple classes. Further, the list is subject to potential minor change as the semester proceeds. Thus, you should thus pay close attention to the weekly assignment schedule posted on the course website.

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Remedies of Unsecured Creditors Under State Law</td>
</tr>
<tr>
<td>2</td>
<td>Security and Foreclosure</td>
</tr>
<tr>
<td>3</td>
<td>Repossession of Collateral</td>
</tr>
<tr>
<td>4</td>
<td>Judicial Sale and Deficiency</td>
</tr>
<tr>
<td>5</td>
<td>Article 9 Sale and Deficiency</td>
</tr>
<tr>
<td>6</td>
<td>Bankruptcy and the Automatic Stay</td>
</tr>
<tr>
<td>7</td>
<td>Treatment of Secured Claims in Bankruptcy</td>
</tr>
<tr>
<td>8</td>
<td>Formalities for Attachment</td>
</tr>
<tr>
<td>9</td>
<td>Which Collateral and Obligations Are Covered? [After-Acquired Property and Future Advances]</td>
</tr>
<tr>
<td>10</td>
<td>Proceeds</td>
</tr>
<tr>
<td>12</td>
<td>Legal Limits on What May Be Collateral</td>
</tr>
<tr>
<td>15</td>
<td>The Prototypical Secured Transaction</td>
</tr>
<tr>
<td>32</td>
<td>Priority: Secured Party vs. Secured Party (Part I)</td>
</tr>
<tr>
<td>16</td>
<td>Personal Property Filing Systems</td>
</tr>
<tr>
<td>17</td>
<td>Article 9 Financing Statements: The Debtor’s Name</td>
</tr>
<tr>
<td>18</td>
<td>Article 9 Financing Statements: Other Information</td>
</tr>
<tr>
<td>19</td>
<td>Exceptions to the Article 9 Filing Requirement (Possession, Control, Automatic Perfection)</td>
</tr>
</tbody>
</table>
Maintaining Perfection Through Lapse and Bankruptcy
Maintaining Perfection Through Changes of Name, Identity, and Use
Maintaining Perfection Through Relocation of Debtor or Collateral
Maintaining Perfection in Certificate of Title Systems
Priority: State Law
Priority: Secured Party vs. Secured Party
Priority: Secured Party vs. Lien Creditor
Priority: Secured Party vs. Lien Creditor (Future Advances)
Priority: Secured Party vs. Bankruptcy Trustee (Strong-Arm Power)
Priority: Secured Party vs. Buyer
Priority: Secured Party vs. Statutory Lien
Bankruptcy Trustee’s Power to Avoid Preferences
Priority in Land and Fixtures
Bailment, Lease, and Consignment Transactions

For the first class on Monday, August 19, you should prepare Assignment #1, which can be found on the course webpage and on the Library’s website for first-day assignments.
DRAFTING AND POSTING
MULTIPLE CHOICE QUESTIONS

As the Syllabus suggests, part of the final examination in this course will consist of multiple choice questions. As part of this course, students must prepare and submit three (3) original multiple choice questions to be posted to the course webpage during the semester. I have three reasons for this requirement:

• First, having a significant number of sample questions will help class members with exam preparation and review.

• Second, preparing a good question will require you to develop a more complete understanding of the particular UCC section(s) or Bankruptcy Code section(s) on which your question focuses.

• Third, to the extent that you post a question and/or explanation that is ambiguous or inaccurate, I can learn about your confusion or error more quickly — and can help you correct it earlier in the semester (so that at the end of the semester, you’re reinforcing what you’ve already learned, rather than trying to figure things out for the first time).

Here is the schedule for submitting your questions. Each question will be due on a rolling basis, with the due date determined by the first letter of your last name. The schedule is also listed (and will be updated as the semester progresses) on the course website.

<table>
<thead>
<tr>
<th>Due Date</th>
<th>Question</th>
<th>Students (First Letter of Last Name)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Friday, Sept. 6</td>
<td>First</td>
<td>A-F</td>
</tr>
<tr>
<td>Friday, Sept. 13</td>
<td>First</td>
<td>G-K</td>
</tr>
<tr>
<td>Friday, Sept. 20</td>
<td>First</td>
<td>L-R</td>
</tr>
<tr>
<td>Friday, Sept. 27</td>
<td>First</td>
<td>S-Z</td>
</tr>
<tr>
<td>Friday, Oct. 4</td>
<td>Second</td>
<td>A-F</td>
</tr>
<tr>
<td>Friday, Oct. 11</td>
<td>Second</td>
<td>G-K</td>
</tr>
<tr>
<td>Friday, Oct. 18</td>
<td>Second</td>
<td>L-R</td>
</tr>
<tr>
<td>Friday, Oct. 25</td>
<td>Second</td>
<td>S-Z</td>
</tr>
<tr>
<td>Friday, Nov. 1</td>
<td>Third</td>
<td>A-G</td>
</tr>
<tr>
<td>Friday, Nov. 8</td>
<td>Third</td>
<td>H-O</td>
</tr>
<tr>
<td>Friday, Nov. 15</td>
<td>Third</td>
<td>P-Z</td>
</tr>
</tbody>
</table>

This memo explains in more detail how you should prepare and send your questions.

Preparing a Question. Questions should take the form of relatively simple hypotheticals designed to test understanding and application of one or more UCC sections. Each question should contain four responses: one correct and three incorrect. A good question should include at least one or two “incorrect” answers that appear plausible.
For example, the following question tests understanding of the rules governing a priority dispute between a person holding a perfected security interest and a subsequent buyer of the collateral:

D purchased a new refrigerator from S on credit and granted S a security interest in the refrigerator. S properly filed a UCC-1 financing statement covering the refrigerator. Subsequently, D sold the refrigerator to her next-door neighbor, N. At the time of this sale, N had no knowledge of S’s security interest in the refrigerator. After using the refrigerator for 2 months, N sold the refrigerator to ABC Appliances, a dealer in new and used appliances. The following week, ABC Appliances sold the refrigerator to X, who knew nothing about the refrigerator’s history.

D has now defaulted on her payments to S. S successfully locates the refrigerator in X’s possession. As between S and X, which statement is correct?

(1) X can keep the refrigerator. N took free of S’s interest in this neighbor-to-neighbor transaction, and X is protected by N’s priority under the shelter rule.

(2) X can keep the refrigerator. X is a buyer in the ordinary course of business and takes free of perfected security interests.

(3) S may repossess the refrigerator from X even though X is a buyer in the ordinary course of business.

(4) S may repossess the refrigerator from X because X is not a buyer in the ordinary course of business.

Preparing Your Explanations. After preparing your question, you should also prepare a message explaining (a) which answer is correct and why, and (b) why the other answers are incorrect. Your explanation should make specific reference to the appropriate UCC sections. For example, the explanation for the above question might read as follows:

Answer (1) is INCORRECT. N did not take the refrigerator free of S’s security interest under § 9-320(b), because S’s filed a financing statement covering the refrigerator (even though S’s security interest was technically automatically perfected without filing under § 9-309(1)). Thus, N took the refrigerator subject to S’s security interest under the general priority rule of §§ 9-315(a) and 9-317(b). Under the derivative title rule, this perfected security interest continued against the refrigerator into the hands of the subsequent buyers, ABC and X.

Answer (2) is INCORRECT. X is a buyer in the ordinary course of business under § 1-201(b)(9), as X appears to have purchased in good faith, without knowledge of S’s security interest, and from a dealer in refrigerators. However, under § 9-320(a), a buyer in the ordinary course of business only takes free of those security interests created by its own seller. Here, X’s seller (ABC) did not create the security interest — it was created by a
previous owner, D. Thus, X did not take the refrigerator free of the security interest created by D.

Answer (3) is CORRECT. D granted S a security interest in the refrigerator. Although this security interest in consumer goods was automatically perfected without more under § 9-309(1), S also filed a financing statement covering the refrigerator. When D sold the refrigerator to N, the security interest continued against the refrigerator. Section 9-320(b)’s “neighbor to neighbor” exception did not apply here because S filed a financing statement covering the refrigerator before the sale took place. Likewise, when N sold the refrigerator to ABC, the security interest continued against the refrigerator, as § 9-315(a) provides. Finally, when ABC sold the refrigerator to X, S’s security interest continues in the refrigerator under § 9-315(a). As discussed above, even though X is a buyer in the ordinary course of business, § 9-320(a) does not protect X here because the security interest was not created by X’s seller.

Answer (4) is INCORRECT. X appears to have been a buyer in the ordinary course of business under § 1-201(b)(9). He acted in good faith, without knowledge of S’s security interest, and he purchased the refrigerator from a dealer in appliances.

**Sending Your Question and Explanation.** For each question you are required to submit, you should send me the question and your explanation, in the format suggested in the above example, by e-mail. My e-mail address is:

frevermuthr@missouri.edu

After I receive your question and explanation, I will review it. If there is a problem with your question — i.e., if it is factually ambiguous, or if there is a problem with your analysis — I will send you a reply message pointing out the problem and asking you to revise the question and resubmit it. Likewise, if your explanation is not sufficiently detailed, I will ask you to provide an appropriate explanation. Once the question and the explanation are sufficient for posting, I will post the question and the explanation to the course webpage for the benefit of all students in the class.

[Note: It is rare that someone’s question is “ready to post” when it is first submitted. Most students will have to “revise and resubmit” at least once.]

**Tips for Preparing Your Questions**

1. Don’t make your questions too simplistic. The exam is not going to include a question like “Which section of Article 9 contains the requirements for a security interest to attach?” The purpose of having you prepare the questions is to help you master how the language of Article 9’s provisions is applied to specific factual situations.

Keeping this in mind, suppose that you decided to draft a question regarding the definition of “inventory.” Don’t draft a question that provides 4 alternative definitions of inventory and asks which definition is correct — that’s too simplistic (especially given that you’ll have your Code Book
during the exam). Instead, you might draft a question that describes four different items of personal property and asks which of the items would constitute “inventory” under Article 9.

2. Likewise, don’t make your questions too complicated, either. The exam is not going to include multiple choice questions with long, complicated factual scenarios. The exam typically includes around 30 multiple choice questions, which you would be expected to complete in 90 minutes. So resist the urge to draft questions with long, complicated fact scenarios.

Remember, I use at least two of the student questions on the exam, so drafting a question with an unnecessarily long or complicated fact scenario pretty much guarantees that your question will not be used. Keep the facts of your question to 1-2 brief paragraphs.