

Commercial Law: Secured Transactions, Law 873
Fall 2024

Professor Stephen Ware

<https://sware.ku.edu/commercial-law-secured-transactions/>

Course Description. Introduction to debtor-creditor law, particularly secured transactions under the Uniform Commercial Code and the Bankruptcy Code.

Learning Outcomes. This course should serve at least three purposes. One is to learn the law and practice of secured transactions and related debtor-creditor law. Successfully completing this course will advance students' knowledge about:

- common transactions involving the extension of credit,
- the enforcement of courts' money judgments,
- the creation, perfection, and enforcement of liens, and
- basic bankruptcy law.

Another purpose of the course is to improve—in the context of complex, technical statutes and transactions—students' professional skills. Among these skills are legal analysis, research, and communication, both written and spoken. The third purpose of the course is to heighten students' awareness—again in the context of complex, technical statutes and transactions—of lawyers' professional and ethical responsibilities to clients and others in the legal system.

When and Where our Class Meets. Our three-credit, in person course is scheduled for 2:40-3:35 on Wednesdays, Thursdays, and Fridays in Room 104.

Attendance and lateness. Accreditation standards governing the Law School say that “[a] law school shall require regular and punctual class attendance.” Perfection is not required, so you may miss a class or two because you have transportation problems, a job interview, illness, a death in the family, or something similar. This sort of absence is no worry, and you do not need to contact me about it. Just borrow class notes from a classmate and then let me know if you have any questions about the material we covered. Similarly, you may be late to class or leave early once or twice for reasons like those listed above. Again, this is no worry and no need to contact me about it.

By contrast, if you are going to miss class or be late or leave early more than a couple of times during the course that is a worry. If that happens, you should contact me to discuss how we can address the situation and keep you on track with the course and your classmates. If you miss some or all of a class session three or more times, I may send you an email warning. If after I do that, you miss some or all of a class session two more times, I may exclude you from the final exam.

Computers and other electronics in class. Subject to exceptions I will announce, you may use a computer in class, but only for working on this course. Audio or video recording of class is prohibited without my written permission.

Required Reading. You may use either paper or digital versions of the following books. The required casebook is LYNN M. LOPUCKI ET AL., SECURED TRANSACTIONS: A SYSTEMS APPROACH (10th ed., 2024). The 10th edition is required.

The recommended statutebook is WARREN & LAWLESS, BANKRUPTCY AND ARTICLE 9 (2024), but you may instead use other sources with current versions of Uniform Commercial Code Articles 1 and 9 and the Bankruptcy Code. The 2023 edition of the recommended statutebook works, but earlier editions do not.

Other required readings will be provided by me or easily found by you. Many are linked in the table ending this syllabus.

Grading. 100 points are available in this course:

- 66 from the final exam,
- 27 from other assignments scheduled in the table ending this syllabus, and
- 7 from classroom performance.

Exam. The final exam is completely open—open book, open notes, open computer, open internet—except that you may not communicate with anyone other than me during the exam. You may take the exam on a computer if you do so with the exam software supported by the Law School. The exam may have a word limit.

All assigned readings and classroom discussions are subject to testing on the exam. If you have questions about the assigned reading after our class discussion of it, please do not hesitate to contact me. I try to make the exams correspond to the course so topics that receive a lot of attention in the reading and in class play a bigger role on the exams than topics that receive less attention in the reading and in class. But I am not able to make this correspondence perfect.

I prefer that the entire class take the exam at its scheduled time but will provide alternate exam times to the extent the school's rules require for individual students.

Other assignments. The various assignments scheduled in the table ending this syllabus are open, so in doing them you may use any resources and communicate with anyone except me.

Classroom performance. The “Learning Outcomes” part of this syllabus distinguishes learning the law from developing professional skills in using the law. You should learn most of the relevant law by reading and talking with classmates before coming to class, so class time can focus on developing students' professional skills, particularly through students answering questions. The classroom performance part of the grade rewards students who frequently contribute well by answering in-class questions.

You may be called on to answer questions in class even when you have not volunteered to answer those questions. But such “cold calling” is needed less when all students frequently volunteer to answer questions. If you volunteer but I call on another student, you should keep volunteering. Ideally, each student will answer at least one question, after volunteering, in each of our class sessions.

Talking with Me Outside of Class. Tuesdays, Wednesdays, and Fridays, I intend to be fully available to students in the afternoons, except right before our class. I will be available plenty of other times as well, and you are always welcome to schedule an appointment or stop by my office (414C), call 785-864-9209, or email ware@ku.edu. Please do not be shy. Talking with students is an important part of my job, and I enjoy it.

Lunch. I like to have lunch with students. We can go across the street to the DeBruce Center Cafe, and within limits the Law School will buy our lunches. I find that these lunches work best with groups of two or three students at a time. If you would like to do this, please send me an email suggesting a day or two that works for all the students in the group at noon (so we'll be back to the Law School well before 1:30) and please copy the other student(s) on that email message.

Accommodations. Classroom and testing accommodations are available to eligible students registered with the Student Access Center. You may contact access@ku.edu or Associate Dean for Academic and Student Affairs, Leah Terranova, leaht@ku.edu or 785-864-4357.

Required links. KU's syllabus [policy](#) requires each syllabus to include these links:

- Explanation of instructional time expected for out-of-class student work per credit (see [Credit Hour Definition](#) policy)
- Statement on accommodations and/or information for students with disabilities (see or use):
 - KULC: [Student Access Center Syllabus Statement](#)
- Links to the following policies:
 - [Sexual Harassment](#)
 - [Nondiscrimination, Equal Opportunity, and Affirmative Action](#)
 - [KU Statement on Diversity and Inclusion](#)
 - Academic Misconduct
 - KULC: [Academic Misconduct \(USRR 2.7.1\)](#)
 - Change of Grade
 - KULC: [Change of Grade Policy](#) and [Change of Grade \(USRR 2.4.1\)](#) (i.e., grade appeal)
 - KULC: [Code of Student Rights and Responsibilities](#)
 - KULC: [Commercial Note-Taking](#)
 - KULC: [Mandatory Reporting](#)
 - KULC: [Racial and Ethnic Harassment Policy](#)

Schedule of Class Sessions. The numbers in the right column refer to pages and problems in the LoPucki et al. casebook. The links should take you to additional readings, many of which are at <https://sware.ku.edu/commercial-law-secured-transactions/>

<u>CLASS</u>	<u>ASSIGNMENT</u>
Chapter 1 - Creditors' Remedies Under State Law	
1. Debtor-Creditor	Read casebook pages xxxi-xxxviii, 3-4. Reply to my email and <u>submit</u> questionnaire no later than eight hours after this class session (2 points).
2. Judicial liens	Read 4-13 (think "garnishment" while reading <i>Ellerbee</i>), 459-460 on how creditors become "lien creditors." <u>Read</u> overview of judicial collection law, and both pieces of additional reading on debt collection in Kansas.
3. SC > USC	13-17, do Problems 1.1-3,5. Read UCC § 9-609, § 9-610, do 2.1, 3.1. <u>Submit</u> at least an hour before class just one sentence of 50 words or less contrasting "claim" with "lien." (3 points).
4. Big Picture	18-19, 22-24, 151 (Sect. 2), 533-34, 601-05, 623-25, 655-57, 659-61. Do 16.6, 40.3.
5. Repo	41-51, 53-55, <u>McLinn</u> case, do 3.10 in Casebook's <u>Supplemental Problems</u>
6. Judicial Foreclosure	34-37, (skip <i>Klein</i>) 58-74, and <u>Mortgage lenders pursue homeowners even after foreclosure</u> Do 4.1-3, then redo 4.1 in a state that allows deficiency judgments.
7. Foreclosure in UCC & U3C	77-91 (add "not" before "commercially reasonable" in brackets of p.88), 145's last paragraph, and Kan. Stat. §§ <u>16a-5-103, 109, 111</u> . Do 5.1, 3.
8. Intended as Security	22-31, 34-37, do 2.2,4
9. Accounts	Read Restatement (Second) of Contracts § <u>317</u> , then 32-34, 51-53, do 3.5-6. Diagram securitization
10. Collecting from our debtor's debtor	Read 19.1, ignoring references to perfection. Instead, be prepared to discuss, with cites to relevant law, how the secured creditor would collect from each of those six types of collateral. <u>Submit</u> at least an hour before class four diagrams, one for each of 19.1a-d. Each diagram should show arrows involving three or more parties. (5 points).

Chapter 2 - Creditors' Remedies in Bankruptcy	
11. Stay	95-109, do 6.1-4
12. Claims	112-118, do 7.1-2, then do 7.2 assuming Argossy is reorganizing in Chapter 11
13.	118-127, do 7.3-4
Chapter 3 - Creation of Security Interests	
14. K Formation & Terms	131-145, 150-59, do 8.1.
15.	251-258, Read UCC § 1-201(a)(35). <u>Submit</u> at least an hour before class a UCC § 9-102(a)(74) "security agreement" with the sentence making it a security agreement highlighted. You may highlight only one sentence. The security agreement must show the real (not hypothetical) parties' names and must be signed and dated. (6 points). You may find the security agreement however you like, but only 4 points are available unless you are the only student who submits the security agreement you submit.
16. Proceeds	163-170, do 10.1,2,4
17.	170-178, do 10.5-6
18. Non-collateral: Individual Ds	148-149 (Rules of Prof'l Conduct), 196-204, 333-334, UCC § 9-103(a)-(b), do 12.5-7, 12.7 is in Casebook's Supplemental Problems
19. Non-collateral: Business Ds	204-213, do 12.1,2
Chapters 4 and 5 - Default, Acceleration and Cure	
20. K Breach	217-234 and reread Kan. Stat. §§ 16a-5-103 , 109 , 111 ; do 13.1, 4, then 13.7 (in Casebook's Supplemental Problems) and 13.3
21. Bankruptcy	122-125 (re-read), 237-246, do 14.1, 3a-b.
22.	249-267 (read the contract carefully), do 15.3 & 15.6 (in Casebook's Supplemental Problems)
Chapter 6 – Perfection	
23. C v. Non-D	271-281 (focus on <i>Peerless</i>), 287-288, do 16.1,3

24. Financing Statements	291-299, 311-314. <u>Submit</u> at least an hour before class what you found when you searched Arizona financing statements for a debtor named “Ware Manufacturing, Inc.” Each of those shall be submitted as a pdf in which the filename is the secured party’s name followed by the date of the filing. Also submit 250 words or less explaining who appears to have a security interest in what and whether any property appears to be encumbered by more than one security interest. (8 points) .
25. Filing Systems	281-288, 338-343 do, 16.4a, 16.4d(1)-(3), 16.5
26. Possession, Consumer Goods, Certif. of Title	330-334, reread 199-200, do 19.4c,e, 19.5a. Replace “Joe” with “Sally” in 19.5a. Read In re Alexander , No. 22-10612, 2024 WL 2096171 (Bankr. D. Kan. May 6, 2024).
Chapter 7 - Maintaining Perfection	
27.	369-384, do 22.4-5
28. D’s Name & Location	387-390, do 23.2a; 398-410, skip <i>Dayka</i> , do 24.1-3
Chapter 8 - Priority	
29.	429-433, do 26.1-2
30.	435-442, do 26.3-4.
31. Bankruptcy	Review 97-98, 112-125, 444-449, do 27.1-2
Chapter 9 - Competitions for Collateral	
32. JLC v. SC	459-467, skip <i>Green</i> , do 28.4, 5-6a, then 28.2
33. TIB v. SC	483-496, skip <i>In re Horn</i> , do 30.1a-b & f. <u>Submit</u> at least an hour before class just one sentence of 50 words or less contrasting Ch. 7 bankruptcy with reorganization bankruptcy. (3 points) .
34. TIB v. SC	499-506, do 31.1b, then 31.1a, c
35. Seller v. SC	561-571, 577-578, reread <i>Peerless</i> (p.275) and connect it to <i>Samuels</i> (p.564)
36. SC v. SC	509-521, skip <i>In re Reckart</i> , do 32.3, 6
37. Buyer v. SC	Review 16.3. Read 582-586, 594-596, do 36.6
38. Synthesize	338-343 (reread), 466 (sect. D), review 28.4; 490-491 (section 3), 525-530
39.	Review