

An Open Letter to Law School Deans About the Importance of Commercial Law Education

Dear Dean,

The American Bar Association's UCC Task Force was formed to bring renewed attention to the importance of commercial law in legal education. There has been a significant decline in commercial law course offerings at U.S. law schools, and we write to ask that you prioritize and encourage commercial law offerings at your institution.

Understanding Commercial Law

Commercial law is often viewed as a branch of corporate or business law. This view is inaccurate and incomplete. Commercial law cuts across disciplines and includes selling, leasing, lending, investing, and payments. Commercial law concepts appear regularly and substantially in a variety of practices, including not only transactional and business litigation fields but also practices focused on consumer law, family law, bankruptcy, and criminal law. Commercial law forms the basis for understanding our existing systems of finance and trade and informs developing systems such as cryptocurrency.

Law schools should not question whether their graduates will encounter commercial law issues in their legal practice, but rather whether they will be prepared to handle them when these issues almost inevitably arise. To that end, it is important to recognize that commercial law frameworks are non-intuitive when one encounters them without a broad base of substantive knowledge. Put another way, these concepts are difficult to learn on the job. There are many examples in which people with a limited understanding of commercial law have made fundamental missteps. For example:

- [Attorneys have faced disciplinary actions after overdrawing client trust accounts due to a lack of understanding of the check clearing process.](#)
- [Many consignors whose attorneys did not know that consignments are within the scope of U.C.C. Article 9 have lost priority contests over *their own inventory* in a subsequent consignee bankruptcy due to their attorneys' failure to perfect their client's interest in the consigned goods.](#)
- [The foreclosure crisis following the Great Recession revealed widespread lack of understanding regarding the negotiability of mortgage notes and the legal requirements for custody of negotiable mortgage notes.](#)

- [Many holders of stablecoins, whether represented by counsel or not, were surprised to learn that they lacked proprietary rights in the reserves purportedly backing their stablecoins—although that reality was well-established in analogous banking law circumstances.](#)

In short, an understanding of commercial law concepts is critical to the practice of law across many significant fields and in numerous different contexts.

Commercial Law Must Be a Part of Law School Curricula

Despite its significance, commercial law is [disappearing](#) from law school curricula. In addition, Secured Transactions will no longer be directly tested on the [NextGen Uniform Bar Exam](#). Few students understand the importance of commercial law when entering law school. This means that student demand alone will not drive enrollment in these courses—even though [many students will end up practicing](#) in fields heavily reliant on commercial law.

Reducing commercial law course offerings is also a mistake because commercial law employment is plentiful, [well-paying](#), and rewarding. Thus, law schools with robust commercial law course offerings will reap a competitive advantage over those that have minimized or eliminated these courses. Graduate employment is heavily weighted in the new ranking formula employed by U.S. News.

Of these courses, Secured Transactions is the foundational subject. It has long been tested on state and uniform Bar exams because it provides a basis for the economy of lending and credit, explaining the dense and non-intuitive process of obtaining and perfecting a property interest that secures an obligation. It provides groundwork for transactional, bankruptcy, and M&A practices and also teaches the solo or small-firm practitioner how to enforce a judgment. An understanding of commercial law concepts will assist students in succeeding on the Bar exam even though Secured Transactions is no longer directly tested. For example, commercial law concepts can help students gain a better understanding of subjects that are Bar exam staples, in particular Contracts and Property.

What You Can Do

We urge you to make it a priority to offer commercial law courses, including those covering secured transactions, sales and leases of goods, payment systems, bankruptcy, or some combination of these, plus additional courses in transactional skills, cryptocurrencies and other digital assets, international trade, consumer finance, and the like. Of these classes, retaining and promoting Secured Transactions is our priority.

Where practical, we recommend hiring tenure-stream faculty skilled in these areas to teach these courses. However, there are numerous adjuncts available and eager to impart their knowledge and enthusiasm for these subjects. Thus, where employment gaps remain, we encourage you to look to adjuncts and visitors to ensure that these offerings are widely available to your students.

How We Can Help

We are a robust community of law professors and practitioners who are dedicated to ensuring that commercial law classes remain in law school curricula. We will work with any law schools who have needs to find adjunct, remote, or visitor resources to fill those needs.

We look forward to working with you to ensure that commercial law remains a priority in law school curricula.

Sincerely,

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