

Preface to the Eighth Edition

Payment Systems and Other Financial Transactions provides a comprehensive introduction to the mechanisms that people use to make payments. The systems of credit cards, checks, and wire transfer are a few examples of financial systems designed to support payment transactions. The guiding principle of this book is the idea that law students learn best from materials that present this area of law as an integral element in a system that includes not only abstract legal rules, but also people who engage in payment transactions; the contracts designed to guide those transactions; and the physical tools, such as filing systems and check sorters, that implement and record payment transactions. To understand the significance and effectiveness of the legal rules, it is necessary to understand the commercial and financial frameworks in which they are applied.

My examination of these systems has had a pervasive effect on the texture of the assignments that constitute the problem-based pedagogy of this book. First, to get a sense of how the rules of commercial law operate in context, I have conducted dozens of interviews with business people and lawyers who use the various systems in their daily work. Second, to give students a feel for how those systems operate in practice, the book incorporates a substantial number of sample documents and forms used in business transactions. Finally, because the casebook is organized according to the systems in which commerce operates—rather than by the sections into which statutes are divided, or by the categories of legal doctrine—the presentation frequently cuts across the arbitrary legal standards that divide commercially similar activities.

I want students to see the deep structural similarities of all the different payment systems in our economy, such as the parallel roles of guaranties and standby letters of credit and the effectiveness of negotiability and securitization as substitute devices for enhancing the liquidity of payment obligations. If students can understand the connections among those different topics, they will be better prepared to grasp the issues raised by the new institutions and systems that will develop during the course of their careers.

I am firmly committed to the view that the best way for students to understand how systems operate is by working through problems that require them to formulate legal strategies. This method encourages a teaching approach in which students are asked to work through the problems on their own; the issues and ramifications raised in the assignments form the basis for class discussion.

My interest in fostering an understanding of real-world commercial transactions influences the types of issues included in the book. The problems are designed to present students with real controversies that could arise between real people. The assignments do not require students to consider issues that

rarely arise in practice. For the same reason, some of the more obscure details of the UCC and other statutory materials have been omitted. My attention to non-doctrinal aspects of commercial transactions is reflected in my use of narrative text and case summaries that provide the background necessary for working through the problems. Given the choice of asking a student to read a lengthy opinion that resolves a difficult legal problem or providing a concise summary of the key points of analysis, I choose the concise analysis every time. My goal is to maximize the pedagogical value of each page and to minimize the time students spend poring over the details of cases that do not directly advance an understanding of the system at hand. Consequently, the exposition is more extensive compared with some traditional casebooks, while excerpts from cases are considerably less extensive.

My goal at all points is to provide two things: the ability to see the grand structure of the existing systems covered in the book and the ability to pick up and use new systems that will develop in the years to come.

The last few editions have implemented the most substantial revisions made to the book since the first edition. The novelty of that original version of this text was its stripped-down attention to negotiability. Instead of the conventional lengthy opening chapters about the details of Article 3, it began with a lengthy discussion of checks that largely ignored the basic principles of negotiability. During the intervening years, though, the role of checks in the payment system has declined steadily, to the point where it can only be anachronistic to design a text that opens with checks as the “paradigmatic” payment system. Accordingly, this book has changed the order of the material considerably, presenting payment cards as the first and paradigmatic payment system. I am cognizant of the difficulty it presents to new users for the edition to change so substantially. But I am equally cognizant of the ever-more pressing need to update the organization of the text to match modern realities. To that end, the current edition is for the most part motivated by the adoption of the new UCC Article 12 and related revisions, which bring into the UCC transactions on the blockchain.

A word about the editing is appropriate. Because this book is intended for pedagogical use, rather than direct scholarly engagement, I have taken unusual liberties in my editing of cases and other materials. Specifically, I have freely (that is, without any indication in the affected text) deleted brackets, citations, emphasis, ellipses, parallel citations, and quotation marks, as appropriate to smooth the reading experience for the student. I of course continue to indicate any revisions I make to the text that I do present. I trust that the benefits of readability outweigh any potential for confusion.

I welcome the opinions of users (and students) about the success of this new organizational arrangement. I am most grateful to the users of the book who have sent suggestions for emendations and improvements of previous editions. As in the last edition, I single out for their particularly useful and detailed suggestions Kenneth Kettering, Jim Rogers, and Paul Shupack.

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