

**Matthew Hart**

**Secured Financing**

**Fall 2023**

**I. Course Description**

Whether credit is extended to a borrower, and the terms of such credit, depend on the lender's assessment of the likelihood of being repaid. If the lender extends credit on a "secured basis," the lender has recourse to particular assets (collateral), if the borrower defaults on its debts and thus is likely to recover more than an "unsecured" creditor.

As a result, lenders may extend credit on more favorable terms if a loan is secured (e.g., an auto loan secured by the vehicle). Similarly, lenders may be willing to extend credit to borrowers, if a loan is secured (e.g., pawn shop lending).

This course addresses the legal framework of secured financing by focusing on Article 9 of the Uniform Commercial Code (the "UCC"). We will also focus on the rights and remedies of the secured creditor and the unsecured creditor under state law, and we will also address the effect of bankruptcy upon these rights and remedies (no prior knowledge of bankruptcy is required).

In my "day job", I advise borrowers and lenders on corporate matters, including secured financing transactions. This course will similarly focus on real-world legal problems both for corporate and personal lending situations. By understanding real-world applications, you will come to better understand the framework and rationale behind the law of secured financing.

**II. Learning Outcomes**

The objectives of this course are for you to: (1) understand what it means for a creditor to be secured; (2) evaluate the strengths and weaknesses of unsecured and secured creditor remedies; (3) determine whether a security interest has been properly created; (3) assess whether a security interest has been properly perfected; (4) evaluate the relative priorities of various secured and unsecured claimants; and (5) understand the structure and organization of article 9 of the Uniform Commercial Code.

**III. Course Materials**

The following materials are required for this class:

(1) Lynn M. LoPucki, Elizabeth Warren, and Robert Lawless, *Secured Transactions: A Systems Approach*, Wolters Kluwer (9th ed. 2020 or latest edition).

(2) Elizabeth Warren, *Bankruptcy and Article 9*, Wolters Kluwer (2021 or latest edition).

(3) Other electronic and print handouts distributed from time to time.

**Annex A** Provides a skeleton course and reading outline for Fall 2023, broken down by week and class period. This course and reading outline is subject to change, as we work our way through the materials. Notice of such changes will be announced as quickly as possible.

The typical format and expectations are as follows:

***Week X***

1. *[Class Number/Day of Class]*
  - a. *Required reading*
  - b. *Lecture/Teaching Coverage*
  - c. *Assignment Problems to Prepare for Discussion in Class*
  - d. *Expected out-of-class problem/email request assignment (see IV(2) below)*

Thus, for the first week of class, please prepare reading on Assignment 1 and the related problems for Thursday, August 24.

**IV. Grading**

Your grade in this class will be based on four items:

- (1) Attendance and class participation (5%);
- (2) Responses to weekly problem sets and/or email requests (20%);
- (3) Two essays on current topics relevant to the class (25%)
- (4) An open-book final exam given at the end of the semester (50%).

**(1). Class Attendance and Class Participation**

The Law Center requires students to attend at least 80% of the scheduled classes. Any student who attends fewer than the minimum percentage of classes is to be automatically dropped from the class. I will take attendance by passing around a roll sheet at the beginning of each class.

Each student should initial by his or her name. It is unacceptable to initial for another student. It is your responsibility to ensure that you have initialed the roll sheet before I leave the classroom each day. This is particularly important if you arrive after class has begun. PLEASE NOTE: You can only sign the attendance sheet for a particular day if you were present for at least half of that day's class.

If you attend for the day and sign the roll sheet, you will start with a 100% attendance and participation grade for that class.

But attending class is not enough. You need to be prepared to thoughtfully engage in the class discussion. I will distribute or announce specific reading and problem-solving assignments in class. Such assignments will generally cover the next several weeks of the course. Please be advised that these assignments may be altered based upon the amount of material that we get through in class. If any alterations do occur, I will announce them as soon as possible.

I will randomly call on students to engage in the discussion. If you attend the class and are called upon, I expect you to be prepared to thoughtfully engage with the materials and questions asked. If you're not able to do so, I reserve the right to mark down your attendance grade for that particular class by up to half.

## **(2). Responses to Email Requests and/or Problem Sets**

Efficient written communication is key to the real world practice of law. To encourage your engagement with the course and to practice this key skill, I will send out an email request each week. Email requests will be a short real-world problem where you will owe me an emailed response by the following week. Email requests may take the form of, for example, a client request, or a request from a senior lawyer about a particular area of the law. If you provide a good faith, well thought-out response to the email request (even if incorrect), you will get full points for the email request for the week. If your response shows little effort or thoughtfulness, but you still turn something in, you will receive half points. If your response is missing or late, you will receive zero points. If your response plagiarizes another student or other source, you will receive zero points and other consequences may follow.

## **(3). Essays on Current Topics**

To further keep you engaged in understanding the law of secured financing, and to encourage the development of your writing, at roughly one-third of the way through the semester and then again at roughly two-thirds of the way through the semester, I'll request that you send me a 3-5 page essay on a current topic relevant to the course. More details will be forthcoming on the particular topics.

These essays will be graded based on the quality of reasoning and writing in addressing the topic. Needless to say, these essays should be your own work.

## **(4). Final Exam**

The examination in this course will be entirely "open book." You may use any material that you wish, whether prepared by you or someone else. The examination itself will be discussed as the semester progresses. I plan to give a final proctored, hard copy exam at the Law Center on the scheduled date and time. You will NOT have the option to take the examination online or in a separate location. If this poses problems for you, you will need to drop the class.

Please note: You will not be able to use ELECTRONIC versions of the textbooks or other assigned materials when taking the final exam with the exam software. Similarly, you will not be able to use ELECTRONIC versions of your outline, notes, or other study materials on the exam. PRINT copies of textbooks, other assigned materials, outlines, notes, or other study materials are fine and may be used on the exam.

The exam is designed in this fashion in order to test your overall comprehension of the subject matter of the course, as well as your ability to efficiently recall and synthesize responses

to problems based on the course materials. This is a key skill both for the bar exam, as well as in the real world of responding to client and senior lawyer requests quickly and efficiently.

## **V. Office Hours**

My office hours are by appointment. Please feel free to e-mail or call me to make an appointment.

## **VI. Class Discussion Approach**

At the Law Center, we are committed to ensuring inclusive online and classroom learning spaces, where you'll be treated with respect and dignity, and where everyone is provided the equitable opportunity to participate, contribute, and succeed. I encourage you to speak up and to share your views, but also understand that you are doing so in a learning environment in which we're all expected to engage respectfully and with regard to the dignity of all others.

I want to address each of you in a manner that corresponds to your identity. Although mistakes happen, chosen names and preferred pronouns—including non-binary ones such as they|them|their—and honorifics, such as Rev., Mr. Ms. Mx. Dr., will be respected in my classroom. Please feel free to reach out to me at any time if you want to make me aware of your chosen name or preferred pronoun or if you have concerns about how I or your classmates address you.

## **VII. Instructor Evaluations**

I welcome any comments or suggestions that you may have regarding my teaching style, class presentation, or any other subject. Please feel free to provide me with such comments during the course of the semester as they will help me to improve my teaching. I will carefully consider all of the comments and suggestions that I receive.

## **VIII. Mental Health and Wellness Resources**

The University of Houston has a number of resources to support students' mental health and overall wellness, including CoogsCARE and the UH Go App. UH Counseling and Psychological Services (CAPS) offers 24/7 mental health support for all students, addressing various concerns like stress, college adjustment and sadness. CAPS provides individual and couples counseling, group therapy, workshops and connections to other support services on and off-campus. For assistance visit [uh.edu/caps](http://uh.edu/caps), call 713-743-5454, or visit a Let's Talk location in-person or virtually. Let's Talk are daily, informal confidential consultations with CAPS therapists where no appointment or paperwork is needed.

The Student Health Center offers a Psychiatry Clinic for enrolled UH students. Call 713-743-5149 during clinic hours, Monday through Friday 8 a.m. - 4:30 p.m. to schedule an appointment.

The A.D. Bruce Religion Center offers spiritual support and a variety of programs centered on well-being.

Need Support Now? - If you or someone you know is struggling or in crisis, help is available. Call CAPS crisis support 24/7 at 713-743-5454, or the National Suicide and Crisis Lifeline: call or text 988, or chat 988lifeline.org.

## **IX. Title IX/Sexual Misconduct**

Per the UHS Sexual Misconduct Policy, your instructor is a “responsible employee” for reporting purposes under Title IX regulations and state law and must report incidents of sexual misconduct (sexual harassment, non-consensual sexual contact, sexual assault, sexual exploitation, sexual intimidation, intimate partner violence, or stalking) about which they become aware to the Title IX office. Please know there are places on campus where you can make a report in confidence. You can find more information about resources on the Title IX website at <https://uh.edu/equal-opportunity/title-ix-sexual-misconduct/resources/>.

## **X. Reasonable Academic Adjustments / Auxiliary Aids**

The University of Houston is committed to providing an academic environment and educational programs that are accessible for its students. Any student with a disability who is experiencing barriers to learning, assessment or participation is encouraged to contact the Justin Dart, Jr. Student Accessibility Center (Dart Center) to learn more about academic accommodations and support that may be available to them. Students seeking academic accommodations will need to register with the Dart Center as soon as possible to ensure timely implementation of approved accommodations. Please contact the Dart Center by visiting the website: <https://uh.edu/accessibility/> calling (713) 743-5400, or emailing [jdcenter@Central.UH.EDU](mailto:jdcenter@Central.UH.EDU).

## **XI. Recording of Class**

Students may not record all or part of class, livestream all or part of class, or make/distribute screen captures, without advanced written consent of the instructor. If you have or think you may have a disability such that you need to record class-related activities, please contact the Justin Dart, Jr. Student Accessibility Center. If you have an accommodation to record class-related activities, those recordings may not be shared with any other student, whether in this course or not, or with any other person or on any other platform. Classes may be recorded by the instructor. Students may use instructor’s recordings for their own studying and notetaking. Instructor’s recordings are not authorized to be shared with anyone without the prior written approval of the instructor. Failure to comply with requirements regarding recordings will result in a disciplinary referral to the Dean of Students Office and may result in disciplinary action.

## **XII. Honor Code**

The UHLC Honor Code applies to all aspects of this course. You are responsible for knowing all Honor Code provisions and for complying with the Honor Code. Please inquire if you have any questions regarding how the Honor Code’s provisions apply to specific activities or situations related to this course. Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to comply with the Honor Code in relation to this course and to comply with the instructions in the course syllabus.

### **XIII. AI Generated Text**

The software technology known as artificial intelligence has recently expanded its capability to generate text (AI Generated Text). Examples of the technology include what are known as “generative” large language models (LLMs), and a specific implementation what is well known in the general public is ChatGPT. These systems can generate text in response to prompts and/or input of other text/documents/code/images. The output, the AI Generated Text, appears to have human-mimicking “intelligence” and is thus potentially usable as a substitute for written work product one might generate themselves. AI Generated Text can include computer code or programs as well as human language content.

Your continuing enrollment in this course is deemed to be a pledge by you under the Honor Code to not prompt, generate, obtain, read, or use any AI Generated Text in relation to any activity or assessment in this course. This applies to AI Generated Text from yourself or others. This pledge includes that your assessment work product in the course is without any contribution from AI Generated Text. This specifically extends to the plagiarism policy and unauthorized aid/materials parts of the Honor Code: AI Generated Text will be treated as from another/other in applying the plagiarism policy to this course. The term “assessment” means any work product generated for this course that is submitted to the instructor or presented in a class session, regardless whether it is graded content or not. Assessments include mid-terms and final exams. AI Generated Text may not be used in the development or drafting of any assessments created by you in a non-proctored environment, such as a “take-home” final examination unless specified as an exception below. The parts of the Honor Code that refer to unauthorized materials or aid are specifically prohibited from any use of AI Generated Text in this course unless specified as an exception below.

The following activities are exceptions to the immediately preceding paragraph; the intent of these exceptions is to allow use of AI Generated Text for specifically and narrowly defined activities in relation to this course:

- Creating content for an outline that you use to summarize the course content
- “conversing” with the AI Generated Text software system to create hypotheticals to better understand course content, alone or with others
- checking text drafted by you for misspellings, grammar and punctuation errors, strength and clarity of prose, verbosity, effective transitional language and thesis sentences, word choice, excessive passive voice, and like things

### **XIV. Syllabus Changes**

Please note that I may need to make modifications to the course syllabus and may do so at any time. Such modifications may include changes to the mode(s) of assessment for the course. Notice of such changes will be announced as quickly as possible.

## **Annex A Secured Financing, M. Hart, Skeleton Course and Reading Outline for Fall 2023**

### **Week 1**

1. Tuesday, August 22
  - a. Intro and Course Overview
2. Thursday, August 24
  - a. Read Assignment 1
  - b. Lecture on Assignment 1
  - c. Review Assignment 1 Problems
  - d. Assign Week 1 Problem/Email Request (due by Friday, September 1, 11:59 PM)

### **Week 2**

3. Tuesday, August 29
  - a. Read Assignment 2
  - b. Lecture on Assignment 2
  - c. Review Assignment 2 Problems
4. Thursday, August 31
  - a. Read Assignment 3
  - b. Lecture on Assignment 3
  - c. Review Assignment 3 Problems
  - d. Assign Week 2 Problem/Email Request (due by Friday, September 8, 11:59 PM)

### **Week 3**

5. Tuesday, September 5
  - a. Read Assignment 4
  - b. Lecture on Assignment 4
  - c. Review Assignment 4 Problems
6. Thursday, September 7
  - a. Read Assignment 5
  - b. Lecture on Assignment 5
  - c. Review Assignment 5 Problems
  - d. Assign Week 3 Problem/Email Request (due by Friday, September 15, 11:59 PM)

**Week 4**

7. Tuesday, September 12
  - a. Read Assignment 6
  - b. Lecture on Assignment 6
  - c. Review Assignment 6 Problems
  
8. Thursday, September 14
  - a. Read Assignment 7
  - b. Lecture on Assignment 7
  - c. Review Assignment 7 Problems
  - d. Assign Week 4 Problem/Email Request (due by Friday, September 22, 11:59 PM)

**Week 5**

9. Tuesday, September 19
    - a. Read Assignment 8
    - b. Lecture on Assignment 8
    - c. Review Assignment 8 Problems
  
  10. Thursday, September 21
    - a. Read Assignment 9
    - b. Lecture on Assignment 9
    - c. Review Assignment 9 Problems
    - d. Assign Week 5 Problem/Email Request (due by Friday, September 29, 11:59 PM)
- **First Essay Due on Monday, September 25 by 11:59 PM.**

**Week 6**

11. Tuesday, September 26
  - a. Read Assignment 10
  - b. Lecture on Assignment 10
  - c. Review Assignment 10 Problems
  
12. Thursday, September 28
  - a. Read Assignment 11
  - b. Lecture on Assignment 11
  - c. Review Assignment 11 Problems
  - d. Assign Week 6 Problem/Email Request (due by Friday, October 6, 11:59 PM)



**Week 7**

13. Tuesday, October 3
  - a. Read Assignment 13
  - b. Lecture on Assignment 13
  - c. Review Assignment 13 Problems
  
14. Thursday, October 5
  - a. Read Assignment 14
  - b. Lecture on Assignment 14
  - c. Review Assignment 14 Problems
  - d. Assign Week 7 Problem/Email Request (due by Friday, October 13, 11:59 PM)

**Week 8**

15. Tuesday, October 10
  - a. Read Assignment 15
  - b. Lecture on Assignment 15
  - c. Review Assignment 15 Problems
  
16. Thursday, October 12
  - a. Read Assignment 16
  - b. Lecture on Assignment 16
  - c. Review Assignment 16 Problems
  - d. Assign Week 8 Problem/Email Request (due by Friday, October 20, 11:59 PM)

**Week 9**

17. Tuesday, October 17
  - a. Read Assignment 17
  - b. Lecture on Assignment 17
  - c. Review Assignment 17 Problems
  
18. Thursday, October 19
  - a. Read Assignment 18
  - b. Lecture on Assignment 18
  - c. Review Assignment 18 Problems
  - d. Assign Week 9 Problem/Email Request (due by Friday, October 27, 11:59 PM)

**Week 10**

19. Tuesday, October 24
    - a. Read Assignment 19
    - b. Lecture on Assignment 19
    - c. Review Assignment 19 Problems
  
  20. Thursday, October 26
    - a. Read Assignment 21
    - b. Lecture on Assignment 21
    - c. Review Assignment 21 Problems
    - d. Assign Week 10 Problem/Email Request (due by Friday, November 3, 11:59 PM)
- **Second Essay Due on Monday, October 30 by 11:59 PM.**

**Week 11**

21. Tuesday, October 31
  - a. Read Assignment 22
  - b. Lecture on Assignment 22
  - c. Review Assignment 22 Problems
  
22. Thursday, November 2
  - a. Read Assignment 23
  - b. Lecture on Assignment 23
  - c. Review Assignment 23 Problems
  - d. Assign Week 11 Problem/Email Request (due by Friday, November 10, 11:59 PM)

**Week 12**

23. Tuesday, November 7
  - a. Read Assignment 24
  - b. Lecture on Assignment 24
  - c. Review Assignment 24 Problems
  
24. Thursday, November 9
  - a. Read Assignment 26
  - b. Lecture on Assignment 26
  - c. Review Assignment 26 Problems
  - d. Assign Week 12 Problem/Email Request (due by Friday, November 17, 11:59 PM)

**Week 13**

25. Tuesday, November 14
  - a. Read Assignment 28
  - b. Lecture on Assignment 28
  - c. Review Assignment 28 Problems
  
26. Thursday, November 16
  - a. Read Assignment 29
  - b. Lecture on Assignment 29
  - c. Review Assignment 29 Problems
  - d. Assign Week 13 Problem/Email Request (due by Friday, November 24, 11:59 PM)

**Week 14**

27. Tuesday, November 21
  - a. Read Assignment 31
  - b. Lecture on Assignment 31
  - c. Review Assignment 31 Problems
  - d. Assign Week 14 Problem/Email Request (due by Friday, November 31, 11:59 PM)

**Week 15**

28. Tuesday, November 28
  - a. Read Assignment 32
  - b. Lecture on Assignment 32
  - c. Review Assignment 32 Problems
  
29. Thursday, November 30
  - a. Read Assignment 35/36
  - b. Lecture on Assignment 35/36
  - c. Review Assignment 35/36 Problems

- ***In Class Final Exam per UH Academic Schedule.***