

SALES TRANSACTIONS: DOMESTIC AND INTERNATIONAL LAW

CASES, PROBLEMS AND MATERIALS

THIRD EDITION

JOHN O. HONNOLD

CURTIS R. REITZ

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by

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*To the students
who for five decades
have shared the exploration
that led to this book*

*

PREFACE TO THIRD EDITION

A lot has happened in the five years since the second edition was published. The primary goal in the new edition is to take due account of those developments and to make the materials as current and relevant as possible.

With regard to domestic United States law, the sponsors of the Uniform Commercial Code completed the revision of Article 1 and the proposed revision of Article 2. It appears, as of now, that state legislatures are adopting the new Article 1, with the notable exception of the controversial provision on choice of law. It also appears that the proposed revision of Article 2 will not be adopted, anywhere, in the near term. This raises very difficult pedagogical questions on whether to focus on current Article 2, on the proposed revision, or to try to do both. The choice made here was to give central place to current Article 2. Notes referring to the most significant changes in the law that would result from enactment of the proposed revision are interspersed in the text at appropriate places. Teachers can use the moribund proposed revisions in a variety of ways. One useful approach is to use the proposals to identify problems in current law and then to consider whether there are solutions to those problems that do not require legislative action.

Selection of the main cases on domestic United States law was based upon the usual criteria of interesting and instructive cases, often on matters in which there are genuine contests to be resolved. Many of the cases are new, including a few from 2004 and 2005. An entirely new section was added, at the end of Chapter 6, on disputes that arise from one party's repudiation of its obligations before the time for performance. In earlier editions, we assumed that this subject was adequately covered in the basic course on Contracts, but we have revised that assumption and added this section.

With respect to international law, a significant number of cases applying the CISG have been published. The primary cause for substantial increase in the number of pages in this edition is the inclusion of many quite new CISG cases. All of the CISG materials are segregated from the materials on domestic United States law so that any teachers, pressed for class time, can easily control how much time to devote to international

materials. We retained the valuable case law from international commercial arbitration tribunals.

A running theme of the book, applicable to both domestic and international law segments, is to engage students in thinking about the role of lawyers in structuring transactions as well as the role of lawyers as advocates in disputes arising from “failed contracts.” Most disputes in commercial transactions are avoidable. Judicial and arbitral decisions should be weighed to determine whether the tribunals made sound rulings. But it is also instructive to consider why the controversies were not avoided by *ex ante* transactional planning as well as why they were not resolved by settlement agreements *ex post*. Students should understand that commercial cases decided by appellate courts, after years of expensive litigation, are a tiny fraction of commercial law disputes, much less commercial law transactions.

Professor Honnold has been quite ill in recent years and was unable to participate in the preparation of this edition. His ideals and his ideas still permeate the book and it is proper to recognize him as senior editor.

CURTIS R. REITZ

Philadelphia PA
November 2005

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