

BUSINESS LAW

SALES AND INCOME STATEMENTS

DIFFERENCE BETWEEN BUSINESS AND CORPORATE LAW

BUSINESS LAW: Comprised of different practice areas associated with business; such as tax, employment, contracts, and corporate law.



CORPORATE LAW: Deals specifically with the rights, relations and conduct of persons, companies, organizations and businesses.

WHY DO PEOPLE GO INTO BUSINESS?

- A. To sell goods- goods are physical objects.
- B. To provide a service- is an activity where you are performing work for others
- C. Make a profit- Profit is a financial gain. The difference between the amount earned and the amount spent while operating a business.

- Operating at a LOSS: Company is not making money. Something must change.
- Insolvent: Unable to pay bills when they come due. You can't pay your creditors.
- Bankruptcy: You seek to have debts discharged or reorganized.
- Reorganized: Creditor changes the term of your credit agreements so business can better manage their payments.



HYPO:

Mr. Smith decides he wants to start a business and is seeking legal advice. Should he seek business advice from a business lawyer or a corporate lawyer?

Based on information provided by S&P Global Market how many businesses in the United States have filed for Bankruptcy so far in 2023?

459

600

271

88

- HOW IS BUSINESS CONDUCTED?
Usually Via Agreements Or
Contracts
- UCC (Uniform Commercial Code)
Article 2 USUALLY APPLIES TO
TRANSACTIONS DEALING WITH
GOODS BUT NOT SERVICES.
- In reference to services there are
various state and federal laws that
codify various services. For
example, if you are providing
healthcare (home attendant), you
would refer to elder care and
healthcare regulations;
educational services-New York
State Department of Education.

- These contracts- non-sale- fall under the purview of the common law. They are regulated by state and federal law. When interpreting and drafting these contracts use the common law.
- Common law: Judicial Precedent.
 - Precedent: Created by judges. It's an example used in subsequent similar circumstances. Ex. Case law says that all service providers in the dairy field should have a license, therefore in this instance you should have a license.

The Uniform Commercial Code (UCC) is a comprehensive set of laws governing all commercial transactions in the United States. It is not a federal law, but a uniformly adopted state law. Uniformity of law is essential in this area for the **interstate transaction of business**. Because the UCC has been universally adopted, businesses can enter into contracts with confidence that the terms will be enforced in the same way by the courts of every American jurisdiction.

HYPOTHESIS: Jane wants to start an animal grooming business in California. Should she refer to federal and local laws concerning the care of animals, or should she refer to the UCC?

QUESTION: What is precedent? Who creates precedent?

- **UCC Article 2: There must be:**
- Buyer: A person who buys or contracts to buy goods.
- Seller: A person who sells or contracts to sell goods.
- Good Faith: in the case of a merchant means **honesty** in fact and the observance of reasonable commercial standards of fair dealing in the trade.
- **Receipt** of goods means taking physical possession of them.

A CONTRACT: Is a legally binding agreement.

A contract can be implied or expressed.

Expressed- In writing

Implied- Based on actions of the parties a contract has been formed.

UCC SEC.2-102
DEALS ONLY WITH THE SALE OF
GOODS BETWEEN MERCHANTS

- GOODS
- MERCHANT

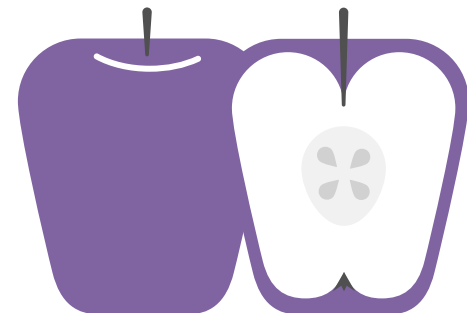


UCC SEC. 2-105

GOODS: All things which are moveable at the time of contract formation. This includes unborn young of animals and growing crops.

GOODS MUST BE BOTH
EXISTING AND IDENTIFIED BEFORE
ANY INTEREST IN THEM CAN PASS.

LET'S TAKE THE EXAMPLE OF THE UNBORN YOUNG OF ANIMAL. IN ORDER FOR IT TO EXIST THE ANIMAL MUST BE PREGNANT AND IDENTIFIED "I WANT TO BUY THE PUPPIES THAT BELONG TO THIS PARTICULAR DOG".



FUTURE GOOD: Does not exist and can't be identified.

A BUYER WANTS 1,000 RED WIDGETS. THEY ONLY COME IN BLUE, BUT THE SELLER SAYS IT CAN MANUFACTURE RED ONES. THEY CONTRACT FOR THE SALE OF 1,000 RED WIDGETS. THE RED WIDGETS ARE FUTURE GOODS.

CONTRACT TO SELL: The seller agrees to sell something to the buyer in the future.

PRESENT SALE: means a sale which is accomplished by the making of the contract.

SEC 2-106

Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time.

A "**sale**" consists in the passing of title from the seller to the buyer for a price – **the red widgets are delivered.**

"Termination" occurs when either party pursuant to the agreement or law puts an end to the contract.
No breach.

Sec 2-201

Statute of Frauds: Amount of contract over \$500.00 it must be in writing.

- **Parole Evidence Rule:** What is embodied within the contract may not be contradicted by evidence of any prior agreement or of a **contemporaneous oral agreement** but may be explained or supplemented.
 - Contemporaneous oral agreement: An agreement is made concerning the terms of the contract while the contract is being negotiated.

HYPOTHESIS: Joe has a pure-bred poodle (dog) and wants to breed it with another pure-bred dog in the future. Sam is interested in buying one of the puppies if Joe decides to breed. They decide to enter into a contract for the sale of one of the puppies.

According to the UCC what kind of contract should they enter into?

What type of good(s) are the puppies?

Sec 2-314

- **2. Implied Warranty of Merchantability:** Are fit for the ordinary purposes for which goods are used.

Goods to be merchantable must :

- (a) pass without objection in the trade under the contract description; (ACCEPTED) and
- (b) in the case of fungible goods, are of fair average quality within the description; and
- (c) are fit for the ordinary purposes for which such goods are used; and
- (d) run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and
- (e) are adequately contained, packaged, and labeled as the agreement may require; and
- (f) conform to the promise or affirmations of fact made on the container or label if any.

SHIPPING GOODS

2-504. Shipment by Seller.

Where the seller is required or authorized to send the goods to the buyer and the contract **does not require him to deliver them at a particular destination, then** unless otherwise agreed he must (a) put the goods in the possession of such a carrier and make such a contract for their transportation as may be **reasonable having** regard to the nature of the goods and other circumstances of the case; and

UCC 2-504 (CONTINUED)

b) obtain and promptly deliver or tender in due form any document necessary to enable the buyer to obtain possession of the goods or otherwise required by the agreement or by usage of trade; and

(c) promptly notify the buyer of the shipment.

2-319. F.O.B. and F.A.S. Terms.

(1) Unless otherwise agreed the term F.O.B. (which means "free on board") at a **named place**, even though used only in connection with the stated price, is a delivery term under which

(a) when the term is F.O.B. the place **of shipment**, the seller must at that place ship the goods in the manner provided in this Article (Section 2-504) and bear the expense and risk of putting them into the possession of the carrier;
or

Sec. 2-319 (Continued)

(b) when the term is F.O.B. the **place of destination,** the seller must at his own expense and risk transport the goods to that place and there tender delivery of them in the manner provided in this Article (**Section 2-503**)-**Buyer furnishes facilities reasonably suited to receive goods.**

UCC 2-319 Continued

(c) when under either (a) or (b) the term is also F.O.B. vessel, car or other vehicle, the seller must in addition at his own expense and risk load the goods on board. If the term is F.O.B. vessel the buyer must name the vessel and in an appropriate case the seller must comply with the provisions of this Article on the form of bill of lading (Section 2-323).

UCC Sec. 2-319 (Continued)

Unless otherwise agreed the term F.A.S. vessel (which means "free alongside") at a named port, even though used only in connection with the stated price, is a delivery term under which the seller must

- (a) at his own expense and risk deliver the goods alongside the vessel in the manner usual in that port or on a dock designated and provided by the buyer; and
- (b) obtain and tender a receipt for the goods in exchange for which the carrier is under a duty to issue a **bill of lading**-detailed list of what is shipped.

§ 2-601. Buyer's Rights on Improper Delivery

- a) reject the whole; or
- (b) accept the whole; or
- (c) accept any commercial unit or units and reject the rest.

HYPOTHESIS: Lee and Mike entered into a contract for Lee to sell and deliver 12 motorbikes to Mike. The contract does not specify place of delivery, but Lee knows where Mike's showroom is located. Lee puts the bikes in the back of his father's truck and asks his father to deliver the bikes to Mike's house. When the bikes arrive at Mike's house, he does not accept delivery. If Lee sues Mike for breach based on non-acceptance will he win?

Lee and Mike entered into a contract for Lee to sell and deliver 12 motorbikes to Mike. The contract does specify F.O.B. to Mike's showroom. Lee puts the bikes in the back of his father's truck and asks his father to deliver the bikes to Mike's house. When the bikes arrive at Mike's house, he does not accept delivery. In addition, Mike notices that some of the bikes have been damaged? If Lee sues Mike for breach based on non-acceptance, will he win? Why or why not? Can Mike reject the goods?

2-713. Buyer's Damages for Non-delivery or Repudiation.

- 1) Subject to the provisions of this Article with respect to proof of market price (Section 2-723), the measure of damages for non-delivery or repudiation by the seller is the difference between the market price at the time when the buyer learned of the breach and the contract price together with any incidental and consequential damages provided in this Article (Section 2-715), but less expenses saved in consequence of the seller's breach.

UCC SEC. 2-713 Continued

2) Market price is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

3. Nominal Damages: Symbolic and not a lot of money. In this case the non-breaching party not really harmed, just want to hold the breaching party accountable.

Liquidated Damages: Specific damages that can be collected in case there is a breach.

Example: Construction contracts- project not completed on time, breaching party gets charged a certain amount per day until project is completed.

Specific Performance- Must provide exactly what contract stipulates; unique goods, land.

- **United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980) (CISG)-Currently has 84 signatories. Both Russia and the United States have ratified the CISG.**
- Purpose: Provides a modern, uniform, and fair system for contracts for the international sale of goods.
- Only includes sale of goods between private business.
- Sales of specified types of goods
- Like UCC excludes sale to consumer and sales of services.
- Parties must be located in different contracting states.

- SOME MAJOR DIFFERENCES BETWEEN ARTICLE 2 OF THE U.C.C. AND CISG:

- CONTRACT FORMATION:

- Under UCC § 2-204: A contract for the sale of goods can be established in any manner as long as there is clear indication that the parties intended to form a contract, even if few contract terms are specified.

- Article 14 of CISG: In order to form a contract the proposal (offer) must be definite. “A proposal is considered definite when the goods and the price and quantity of goods are CLEARLY INDICATED”.

- SOME MAJOR DIFFERENCES BETWEEN ARTICLE 2 OF THE U.C.C. AND CISG:

- WRITTEN CONTRACTS:

- Under UCC § 2-201: Statute of Frauds- Contracts for the sale of goods over \$500.00 must be in writing.

- Article 11 of the CISG: Contracts are not required to be in writing, irrespective of sales of over \$500.00 and the writing does not serve the purpose of evidence. Other means can be adopted to prove the existence of the contract, such as witness and parole evidence.

DIFFERENCES UCC CISG Continued

BREACH, NON-CONFORMING GOODS:

UCC Article 2-Part 6: **Nonconforming goods**; goods that don't conform to what was contracted. Under the UCC non-conforming goods can be rejected and this is not considered a breach. Must specifically reject goods or considered acceptance of the merchandise.

Article 25 of the CISG: There is fundamental breach in the contract if there is **substantial deprivation** of what is expect from the contract, an the one causing the breach could not have reasonably foreseen this breach". CISG doesn't recognize rejection of goods, but rather when the seller has moved from the expectation of the parties.

DAMAGES:

UCC § 2-715: Buyer's incidental and consequential damages state that incidental damages that occur from the seller's breach of contract includes costs incurred in inspection, receipt, transportation care and the custody of goods.

Consequential damages resulting from the seller's breach include any loss resulting from a particular or general requirement essential to the terms of the contract.

DAMAGES: Continued

Article 74 of the CISG: damages incurred from a breach of contract by one party are the amount of loss incurred, including loss of profit, by the other party, as cause by this breach. SUCH DAMAGES MAY NOT EXCEED THE AMOUNT OF LOSS INCURRED.

HYPOTHESIS: Jay contracts to sell David 100 electric toothbrushes at a price of \$2,000. They did not put this agreement in writing, but after two weeks and before he delivers the toothbrushes, Jay sends David an email that says, "I will ship the toothbrushes next Friday". David does not respond. The toothbrushes are shipped, and David sends them back.

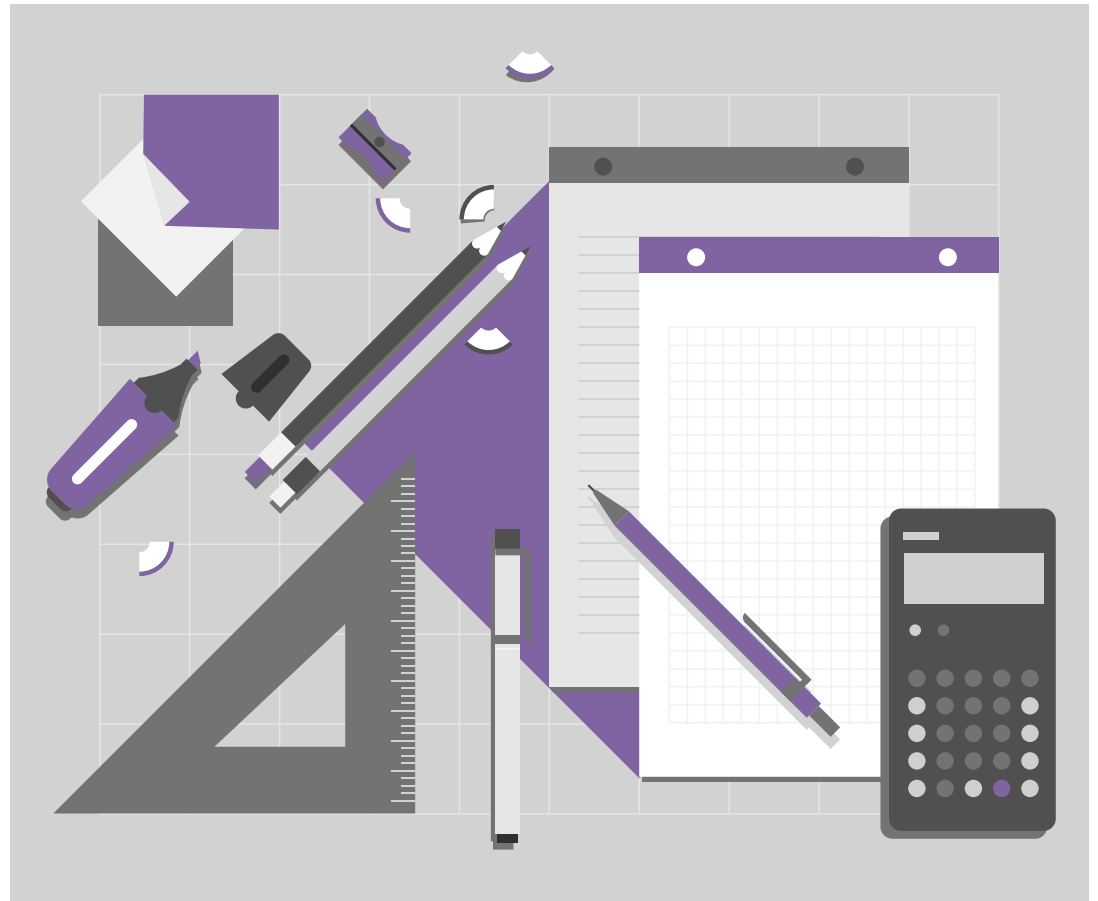
Lee sues for breach. What are his chances of winning under the UCC?

What are his chances of winning under the CISG?

UCC	Common Law	CISG
Acceptance may include changes that do not materially change the contract	Mirror Image Rule- Acceptance has to exactly replicate the offer	Can accept through partial or complete performance or official notice unless otherwise stated by offeror
Required terms are the quantity of goods	Required terms include quantity, price, performance, timing, and nature of work	No specific requirements for a contract
Damages that pertain to the buyer are consequential and incidental; only incidental apply to seller	Expectation and consequential damages are most commonly used in calculations, with purpose of assuring fairness and making parties whole again	Loss incurred to the damaged party only.
Statute of Frauds over \$500.00 must be in writing	Statute of frauds pertains to written contracts lasting over one (1) year, such as contracts for land and marriage contracts	No writing necessary. Evidence is granted through witnesses.

- INCOME STATEMENT

- **Income Statement:** Is a summary of all income(money that comes in) and expenses(money that is paid out) over a period of time.



- **Purpose of an Income**

- **Statement:**

- Provides the financial story of businesses' operating activities.
- Frequent Reports: Income statements are generated monthly or quarterly. Helps business owners track performance and make informed decisions.
- Pinpoints Expenses: You know where your money is going, and you can budget accordingly.
- Provides an overall analysis of the company for investors.

- An Income Statements importance lies in helping owners, company leaders, investors, and analyst understand the businesses operational capacity and results. This helps the company become more efficient.
- Company leader- Managers, Owners, etc.
- Investor- Puts money into a business with the expectation of a profit.
- Analyst- Interprets business data for profit and efficiency.

- WHAT GOES ON AN INCOME STATEMENT?
- Revenue: The amount of money a business takes in during a specific period.
- Expenses: The amount of money a business spends during a reported period.
- Costs of goods: The cost component part(s) of what it takes to make whatever a business sells (raw materials, labor, manufacturing overhead costs)
- Gross Profit: Total revenue less cost of goods
- Operating Income: Gross profit less operating expenses

- Income Before Taxes: Operating Income less non-operating expenses
- Net Income: Income before taxes minus taxes
- Earnings Per Share: Division
Divide net income by total number of outstanding share (One million/Shareholders 30%)
- Depreciation: The extent that to which assets have lost value over time.
- EBITDA: Earnings before interest, depreciation, taxes, and amortization.
- Amortization- decrease in amount

HYPOTHESIS: Sarah sells ice-cream. Her business earns \$12,000 per month. She spends \$2,000 on monthly operating expenses and \$4,000 per month goes to the cost of goods.

What is her total monthly revenue?

What is her operating income?

What is her gross profit?

CONCLUSION:

- Business law encompasses corporate law
- Operate a business for profit and not for loss.
- Usually conduct business via contracts or agreements.
- Service agreements, etc. refer to federal, state law and common law.

Contracts for goods- UCC- buyers, sellers, good faith and receipt of goods, sales, types of goods, contract termination, shipment of goods, parole evidence, statute of frauds.

CONCLUSION (Continued)

- CISG: Uniformity like the UCC. Deals with contracts where parties are from different states. There are major differences between the UCC, CISG and common law.
- Income Statement: Summary of expenditures and profits over a period of time. Provides information concerning revenue, taxes, profit, income, depreciation, loss, etc.

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