

# Negotiable Instruments Can Be Fun

By Susan Kosse

Now before everyone laughs at this idea (except, of course, all the Code teaching professors) let me explain: This was my first semester teaching a Code course. In my other courses, Administrative Law and Legal Writing, I always try to use technology and other resources to make the classes more interesting. When faced with the daunting challenge of teaching Negotiable Instruments for the first time, I reflected on ways I could spice up the course yet still teach students what they need to know. The following are some of my ideas.

## *Is this note a negotiable instrument?*

After covering the requirements of negotiability, I designed three different notes. Each of these notes included three to four defects that would cause them to be non-negotiable. I divided my students into groups of three (I teach 35) and gave each group one version of the notes. They spent most of the class analyzing whether the note met the requirements found in U.C.C. § 3-104. Some of the problems included no signature, non-conditional promises, failure to state a definite time for payment, a “smiley face” for a signature, and “Non-negotiable” stamped on the bottom.

After the students analyzed the notes, I gave them three different checks. One had “Pay to the order” crossed out, one said “Non-negotiable” on its face, and one had “\$1,000” but only “One hundred” in the written part.

We all came back together, and I asked each group to tell me the problems with their notes and the applicable Code sections. We did the same for the checks. After everyone reported I handed out a model that had no defects so they could compare it to their problem notes.

The exercise worked well. It reviewed all the concepts we had been studying in a real-life application. It was good practice for the students to analyze an entire negotiable instrument without being told where the problems might be. Although we use a problem approach book that is excellent (Whaley’s PROBLEMS AND MATERIALS ON PAYMENT LAW), the problems break down U.C.C. § 3-104 into individual components (e.g., problems with a signature, problems with a definite amount of money, etc.). In my exercise, the students were forced to look at the entire note.

## *Is our client a holder-in-due-course?*

For this exercise I asked another Negotiable Instrument professor to be our guest client. I based my scenario on *Asian International, Ltd. v. Merrill Lynch, Pierce, Fenner and Smith, Inc.*, 435 So.2d 1058 (La. App. 1983). The case involved a check. The court ruled Merrill Lynch was a bank and therefore was not affected by a missing necessary

indorsement. The court also held that Merrill Lynch had given value. The students knew nothing about the case except that they needed to ascertain whether our client was a holder-in-due-course.

They asked the client his name and what they could do for him. When they asked to see the instrument, I used PowerPoint and a LCD projector to display the check on a big screen. Through lots of questions they eventually came to the correct conclusion. I also changed facts from the case to test the students’ knowledge of Articles 3 and 4. For example, I told them to assume Merrill Lynch is not a bank. For further review, I had the client turn into a senior partner and the students had to explain, using Code sections, reasons for pursuing or not pursuing the case.

## *Who Wants to be a Negotiable Instrument Attorney?*

For a review session, I created a PowerPoint presentation titled, “Who Wants to be a Negotiable Instrument Attorney?” I selected the “participants” randomly. Much like the more famous contestants on “Who Wants to be a Millionaire?”, my participants had three lifelines. They could ask the class for a vote, I could take two of the choices away, or they could phone a friend — which for them was asking another student. One sample question was:

- 1) What is an indorser’s liability:
  - a) I will pay the instrument.
  - b) I will pay the instrument if it is presented, dishonored, and I receive notice.
  - c) I will pay the instrument if it is presented, dishonored, and notice is given.
  - d) I will never pay the instrument.

The class loved the exercise and learned a lot. I have also designed “Who Wants to be an Oral Advocate?” for my Legal Writing Classes. You could incorporate this idea in virtually any class.

## *Conclusion*

These exercises were a great way to review the first four weeks of classes. The students’ response was positive and they indicated they found the experience helpful. I found this method an ideal way to make sure all my students understood the principles upon which the rest of the course would be based.

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*Susan Kosse teaches at the Louis D. Brandeis School of Law, University of Louisville, Louisville, KY 40292; (502) 852-6373; fax (502) 852-0862; susan.kosse@louisville.edu.*