

UNIFORM COMMERCIAL CODE COMMITTEE

REPORT PREPARED FOR THE DECEMBER 7, 2013 COUNCIL MEETING

1. Next Scheduled Meeting of the Committee

No meeting has been scheduled yet, but will likely take place in November.

2. Council Approval.

No matters currently require Council approval.

3. Membership.

Whenever a new person joins the Committee, I send to him or her an email message describing the Committee's activities and encouraging that person to become actively involved. I regularly send written memos to all committee members notifying them of important recent developments in the relevant case law from Michigan and elsewhere and of other important matters involving the UCC.

4. Accomplishments Toward Committee Objectives.

The primary objective of the UCC Committee is to educate Michigan lawyers concerning the provision and operation of the Uniform Commercial Code as enacted in this state by numerous means including (i) the presentation of seminars; (ii) the publication of articles in the Michigan Business Law Journal and elsewhere; and (iii) the dissemination of articles, and other information about current UCC developments. In connection with the foregoing, there is also the objective of engaging as many Committee members in this process. I believe that the activities that I undertake as Chair of this Committee, advance these objectives.

5. Meetings and Programs.

Nothing since my last report.

6. Publications.

Please see the attached communications sent to all Committee members.

7. Methods of Monitoring Legislative/Judicial/Administrative Developments and Recommended Action.

I review daily for recent UCC case law the recent Michigan appellate court decisions that are reported online daily by the Michigan State Bar Association. I also review other

reporting services for federal court decisions construing UCC provisions. Finally, I am a member of the UCC Committee of the American Bar Association's Business Law Section and receive the UCC Newsletter and other relevant literature published by this ABA Section for items of interest to Committee members.

8. Miscellaneous.

Nothing to report.

BARNES & THORNBURG LLP

MEMORANDUM

TO: All Members of the UCC Committee
FROM: Patrick E. Mears
DATE: November 22, 2013
RE: Recent Decisions

To All Committee Members:

Enclosed please find copies of the following:

1. 1st Source Bank v. Wilson Bank & Trust, 2013 WL 5942056 (6th Cir. 2013). This appeal involved priority disputes between and among secured lenders to two borrowers who eventually suffered the repossession and liquidation of their assets. The appellant, 1st Source Bank, failed to state specifically in its financing statements that its collateral included the debtors' accounts although these statements listed "proceeds" of financed equipment. The other lenders/appellees had listed accounts in their respective financing statements. The federal district court concluded that, under applicable Tennessee Article 9 law, 1st Source failed to perfect its security interest in the debtors' accounts notwithstanding the bank's perfected interest in "proceeds". The Sixth Circuit Court of Appeals affirmed the judgment below.
2. Sensient Flavors, LLC v Crossroads Debt, LLC, Case No. 302323 (Mich. Ct. App., Oct. 31, 2013). In this unpublished decision, the Michigan Court of Appeals affirmed the decision of the Grand Traverse County Circuit Court holding that the Plaintiff obtained cherries pursuant to the terms of a settlement agreement providing for debt forgiveness as a "buyer in the ordinary course of business" within the meaning of MCL 440.9320(1). The Court of Appeals also affirmed the trial court's determination that certain stored cherries were consignment goods under MCL §§440.9102(t) and 440.9319(i).
3. Finally, I am sending to you the ABA Business Law Section's Commercial Law Newsletter dated November 8, 2013.

Patrick Mears