



The Uniform Commercial Code

THEME INTRODUCTION

By John R. Trentacosta

We are very pleased to present this month's theme issue. The economic turmoil of the past two years has placed a great strain on all businesses, especially manufacturing companies in the Midwest and particularly in Michigan. This economic strain has put pressure on the supply chain, which has companies reviewing all their contracts, especially supply contracts: Do I have a fixed-price contract? For what period of time must I supply? What can I do if my supplier stops shipping or threatens to stop shipping?

When issues arise under supply contracts, the Uniform Commercial Code necessarily comes into play. Article 2 of the Uniform Commercial Code governs transactions in goods and has been adopted throughout the United States. An understanding of Article 2 is critically important in analyzing issues associated with drafting contracts and litigating contract disputes. For issues involving contracts and contract disputes, generally, consider the research set forth in ICLE's *Michigan Contract Law* treatise.

We present four articles in this theme issue. Robert Kenagy submits "Using a Liquidated Damages Clause in Major Agreements for the Sale of Goods." These clauses are an often overlooked tool in contract drafting. Richard Paige and Moheeb Murray's article asks, "Can the UCC's Provisions Protecting Check Writers from Fraud Also Protect Them from Ponzi Schemes?" This is a timely article given recent high-profile financial frauds. Patrick Mears writes on the topic "Amending the Michigan Tooling Lien Statutes: A Necessary Dialectic." Tooling liens are at the forefront of many supply chain lawsuits. Lastly, I have submitted an article entitled "Commercial Impracticability and Fair Allocation Under UCC 2-615." As the economy (hopefully) turns the corner, shortages in raw materials and parts undoubtedly will occur. This article addresses the doctrine of allocation under the Uniform Commercial Code.

As we move into a period of economic recovery, the lessons learned over the past few years should not be forgotten. Supply contracts are critically important agreements. Warranties, indemnity, damage disclaimers, etc., should be considered and negotiated. The Uniform Commercial Code is the statutory framework that governs these critical topics. We submit this theme issue in the hope that it will be informative to your commercial and business practice. ■



John R. Trentacosta is a partner in the Detroit office of Foley & Lardner LLP. He practices in the area of contract, UCC, and commercial litigation. He is the editor and contributing author of the leading contract law treatise, Michigan Contract Law (Institute of Continuing Legal Education, 1998). He is also the co-author and editor of Michigan Legal Forms—Uniform Commercial Code (Lawyers Cooperative Publishing, 1995).