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Foreword

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**Out with the Old, In with the New?
Articles 2 and 2A of the Uniform Commercial Code****

*Margit Livingston***

MARGIT LIVINGSTON: Thank you, Mark. I'd like to add my words of welcome to those of Mary Whitmer. We at DePaul are most grateful for our ongoing affiliation with the Commercial Law League of America in publishing the DePaul Business & Commercial Law Journal and in sponsoring this annual symposium.

The topic today is going to be recent developments in Articles 2 and 2A of the U.C.C. from both the practical and theoretical perspective, and we hope that you find today's presentations informative and stimulating.

Article 2 of the U.C.C., as you are aware, was derived from the old Uniform Sales Act, originally promulgated by the Uniform Law Commissioners in 1906. It came into existence with the U.C.C. itself in 1951 and has remained in its original form up until 2003 when the American Law Institute and the National Conference of Commissioners on Uniform State Laws made some particular amendments to Article 2. The basic core of Article 2 remains intact, but the amendments seek to modernize the statute by adding provisions facilitating electronic transactions, increasing the dollar amount exemption under the statute of frauds, simplifying the battle-of-the-forms rules, and augmenting protections for consumers.

Added to the U.C.C. in 1987, Article 2A governing true leases recognized the enormous increase in the use of leases that began in the 1970s. Leasing, as you know, became in many cases a method of financing transactions in goods. In finance leases, lessor and lessee became analogous to creditor and debtor in conventional secured transactions.

* This is an edited version of the transcript from Professor Margit Livingston's opening remarks at the DEPAUL BUSINESS AND COMMERCIAL LAW JOURNAL SYMPOSIUM, *Out with the Old, In with the New? Articles 2 and 2A of the Uniform Commercial Code*, held on April 7, 2005.

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Karl Llewellyn, as you may recall, was the chief reporter for the Uniform Commercial Code project many decades ago. A major proponent of the school of legal philosophy known as Legal Realism, Llewellyn thought that the Code should reflect the actual business practices of real-life actors in the commercial world, and one of his greatest concerns was that the Code would become woefully outmoded in a relatively short period of time as new practices arose and old ones vanished. He believed that mercantile law, more than other types of law, ran the risk of lagging behind societal and economic changes, and because commercial transactions are the life blood of a capitalistic economy, archaic business laws could severely undermine the economy's overall vitality.

One might hope that Llewellyn would be pleased by the efforts of the National Conference of Commissioners on Uniform State Laws and the American Law Institute to keep the U.C.C. current with the changing landscape of commercial practices.

Our speakers today will be addressing the impact of that changing landscape on a particular segment of the commercial world, namely, sales and lease transactions.

The symposium proceedings from today will be published in the summer issue of the DePaul Business & Commercial Law Journal, which is in its third year as the successor to the former DePaul Business Law Journal and the former Commercial Law Journal, published by the Commercial Law League of America. Three years ago, DePaul University College of Law entered into a cooperative arrangement with the Commercial Law League of America for the publication of the new DePaul Business & Commercial Law Journal. Max Moses and Elliott Levin of the Commercial Law League of America worked with me and former Dean Wayne Lewis in bringing about this affiliation.

Through this affiliation, DePaul is able to produce a high-quality journal devoted to in-depth analysis of theoretical and practical issues in the fast-changing arena of corporate, antitrust, commercial and bankruptcy law. The new journal is published four times a year and is distributed to almost 5,000 subscribers in the United States and around the world.

DePaul University College of Law is fortunate to be co-hosting, with the Commercial Law League of America, the third annual sym-

posium of the DePaul Business and Commercial Law Journal, and I'm pleased to welcome the Commercial Law League members who are here attending the League's Midwest Regional conference, as well as Chicago-area practitioners, professors and law students.

We are delighted to have with us today an extraordinarily impressive group of speakers. They represent some of the country's most prominent and experienced commercial law practitioners and scholars, and we hope that you will find their insights into Articles 2 and 2A, as well as their experience in putting together sales and lease transactions, useful and interesting.

Before we get to those first speakers, I would like to thank some individuals who have contributed to the success of the Journal this year and to the planning and creation of this symposium. None of this could have happened without the unfailing support of the law school dean, Dean Glen Weissenberger, who, unfortunately, could not be here today. He's struggling with some ongoing health issues, and he regrets that he could not be with us this morning.

In addition, of course, the Commercial Law League of America has provided invaluable financial and editorial assistance to us. And, most especially, I want to thank the student editorial board for the Journal. The student editors, as well as their staff members, have dedicated themselves to guaranteeing the continuing high quality of the journal. This year's editors include — and if you are here, please stand up when I mention your name — Colleen Cavanaugh, Kristopher Stark, Emily Novak, Robert Edesess, Andrew Arons, Brandi McCoy and Ryan Mitchell. And I would like to especially acknowledge the outgoing Editor-in-Chief, Mat Siporin, who has done a wonderful job this year of running the journal. And, of course, the one and only, Mark Kestnbaum, who, despite the demands of being a full-time law student, has devoted endless hours to putting together this program.

And now I'd like to introduce the moderator for the morning session, Barry Chatz. Mr. Chatz is a partner in the firm of Arnstein & Lehr and co-chair of the Bankruptcy Creditors Rights and Restructuring Practice Group. He's an active member of the Illinois, California and American Bar Associations and the American Bankruptcy Institute. He has authored numerous bankruptcy-related articles in various trade publications and has spoken before many legal organizations, including the Commercial Law League of America and

committees of the American Bar Association, as well as private businesses.

He's a DePaul University College of Law alumnus and also has his bachelor's degree from the University of Wisconsin. It's my pleasure to introduce Barry Chatz.