



## Topic 7: Formation with Leases, International Sales, and Real Estate Sales

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## Leases: Formation

### Leases: Formation

- Parol evidence: same as for sales
- UCC 2A-202 on parol evidence is exactly the same as UCC 2-202

### Leases: Formation

- Statute of frauds: some differences
- UCC 2A-201 provides:
  - Threshold amount for writing is \$1,000 instead of \$500
  - There is no merchant's exception
    - Cf. 2-201(2)
  - There is no payment received/accepted exception, but not goods received/accepted exception (2A-201(4)(c))
    - Cf. 2-201(3)(c)

# International Sales: Formation

## International Sales: Formation

- Parol evidence: There is no parol evidence rule under the CISG.
  - Article 8(3): "In determining the intent of a party or the understanding a reasonable person would have had, due consideration is to be given to all relevant circumstances of the case including the negotiations ..."

### International Sales: Formation

- You can presumably bargain for a parol evidence rule:
  - Article 6: "The parties may exclude the application of this Convention or ... derogate from or vary the effect of any of its provisions."
- But you cannot exclude parol evidence from the determination of whether the parties meant to exclude parol evidence!

### International Sales: Formation

- Statute of frauds: There is no statute of frauds rule under the CISG.
  - Article 11: "A contract of sale need not be concluded in or evidenced by writing and is not subject to any other requirement as to form. It may be proved by any means, including witnesses."
- You can't get around this by bargaining (that's logically impossible!).
  - Article 12 would allow the United States to declare out of Article 11 of the CISG, but the US has not.

# Real Estate Sales: Formation

## Real Estate Sales: Formation

- Statute of frauds: Some states have statutes requiring a writing for real-estate sales. Otherwise the common-law statute of frauds applies.
- Jurisdictions vary, but in general, the common-law or state-statutory writing requirement for real estate is stricter than the UCC.
- Very generally speaking, the UCC tends to want written evidence of the agreement, where for real estate, the law tends to want to see the agreement itself in writing.

### Real Estate Sales: Formation

- Parol evidence: The common-law parol evidence rule applies for real-estate transactions.
- The common-law PER is largely the same as the UCC's PER.