

Part III: Negotiable Instruments

I. Negotiable Instruments

A. Generally

1. Definition:

- a. Writing
- b. Signed
- c. Promise to pay \$, or instruction (“order”) to someone else to pay \$
- d. Sum certain (how much is it?!)
- e. Must be payable in \$ (can’t be goods, etc...)
- f. Must be payable at definite time
 - i. Includes pay on “demand”
- g. Unconditional
- h. May be no other obligation than the obligation to pay \$ (Ex: invalid for a promissory note to say this note is subject to the terms of the sales agreement which I have just signed)
- i. Must be payable either to bearer or order**
 - i. Ex: “to pay to the order of” = we will pay X, or to anyone X instructs (order) you to pay
 - ii. Bearer instrument is more dangerous b/c anyone who has it can redeem for value
 1. Ex: Check written to “Cash” may be cashed by anyone who holds it, as opposed to check written as payable to the order of “X”
 - iii. Can’t execute promissory note, such as follows:
 1. “I promise to pay John Smith \$100”, b/c can’t be negotiable instrument in commerce, isn’t payable to bearer or to the order of X, only John Smith may redeem

2. History:

- a. Unsafe for merchants to send gold/jewels in exchange for merchandise b/c of pirates and thieves so, merchants began to devise methods of transacting business w/o the transfer of hard currency
 - i. All banks were private, merchant in London would go to London banker and tell him how much of whatever he was buying and the cost from X in Venice, here is the \$, please get this to banker in Venice to give to