

STEPHEN J. WARE

School of Law
University of Kansas
1535 West 15th Street
Lawrence, KS 66045-7577

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PROFESSIONAL POSITIONS

2003-present	Professor of Law, The University of Kansas.
1993-2003	Professor of Law, Cumberland School of Law, Samford University.
2002 Summer	Visiting Professor of Law, The University of Kansas.
2001 Summer	Visiting Professor of Law, The University of Alabama. (“Podium-fill” visit to cover needs in Secured Transactions.)
1999 Fall	Visiting Professor of Law, Ohio State University. (“Podium-fill” visit to cover needs in Contracts and ADR.)
1998 Fall	Visiting Professor of Law, College of William & Mary. (“Podium-fill” visit to cover needs in Contracts and Secured Transactions.)
1991-1993	Davis Polk & Wardwell, New York, NY.
1990-1991	Law Clerk to the Honorable J. Daniel Mahoney, United States Court of Appeals, Second Circuit.

EDUCATION

J.D., honors, University of Chicago Law School, 1990. Editor, *University of Chicago Law Review*. Bradley Fellow.

B.A., American History and Political Science, cum laude, 1987, University of Pennsylvania.

BOOKS

PRINCIPLES OF ARBITRATION LAW (Thomson/West Concise Hornbook Series, forthcoming 2012) (with Dennis Nolan).

PRINCIPLES OF ALTERNATIVE DISPUTE RESOLUTION (Thomson/West Concise Hornbook Series, 2d edition 2007).

ARBITRATION LAW IN AMERICA: A CRITICAL ASSESSMENT (Cambridge University Press 2006) (with Edward Brunet, Richard Speidel & Jean Sternlight).

ALTERNATIVE DISPUTE RESOLUTION (West Group Hornbook Series 2001).

LAW REVIEW ARTICLES

Similarities Between Arbitration and Bankruptcy Litigation, 11 NEV. L. J. 436 (2011) (symposium article).

Why Do Businesses Use (or Not Use) Arbitration Clauses?, 25 OHIO ST. J. ON DISP. RESOL. 433 (2010) (with Christopher R. Drahozal).

Bankruptcy Law's Treatment of Creditors' Jury-Trial and Arbitration Rights, 17 AM. BANKR. INST. L. REV. 479 (2009) (symposium article).

The Missouri Plan in National Perspective, 74 MO. L. REV. 751 (2009) (symposium article).

The Bar's Extraordinarily Powerful Role in Selecting the Kansas Supreme Court, 18 KAN. J. L. & PUB. POL'Y 392 (2009).

Farm Tractors in Kansas: How to Perfect a Security Interest, 57 U. KAN. L. REV. 409 (2009) (with Aaron K. Johnstun).

What Makes Securities Arbitration Different from Other Consumer and Employment Arbitration? 76 U. CIN. L. REV. 447 (2008) (symposium article), *reprinted in*, 8 ICFAI UNIV. J. OF ALT. DISP. RESOL. 25 (2009).

Selection to the Kansas Supreme Court, 17 KAN. J. L. & PUB. POL'Y 386 (2008).

Arbitration Law's Separability Doctrine After Buckeye Check Cashing Inc. v. Cardegna, 8 NEV. L. J. 107 (2007) (symposium article).

"Medical-Related Financial Distress," and Health Care Finance: A Reply to Professor Melissa Jacoby, 55 U. KAN. L. REV. 1259 (2007) (symposium article).

LAW REVIEW ARTICLES (cont.)

The Case for Enforcing Adhesive Arbitration Agreements - with Particular Consideration of Class Actions and Arbitration Fees, 5 J. AM. ARB. 251 (2006).

The Source of Alabama's Abundance of Arbitration Cases: Alabama's Bizarre Law of Damages for Mental Anguish, 28 AM. J. TRIAL ADVOC. 135 (2004) (with W. Scott Simpson & Vickie M. Willard).

Arbitration Clauses, Jury-Waiver Clauses and Other Contractual Waivers of Constitutional Rights, 67 LAW & CONTEMP. PROBS. 167 (2004) (symposium article).

Teaching Arbitration Law, 14 AM. REV. INT'L ARB. 231 (2003).

Contractual Arbitration, Mandatory Arbitration and State Constitutional Jury-Trial Rights, 38 U.S.F. L. REV. 39 (2003) (symposium article).

Consumer and Employment Arbitration Law in Comparative Perspective: The Importance of the Civil Jury, 56 U. MIAMI L. REV. 865 (2002) (symposium article).

Security Interests, Repossessed Collateral and Turnover of Property to the Bankruptcy Estate, 2002 UTAH L. REV. 775.

Domain-Name Arbitration in the Arbitration-Law Context: Consent to, and Fairness in, the UDRP, 6 J. SMALL & EMERGING BUS. L. 129 (2002).

Paying the Price of Process: Judicial Regulation of Consumer Arbitration Agreements, 2001 J. DISP. RESOL. 89 (symposium article).

The Effects of Gilmer: Empirical and Other Approaches to the Study of Employment Arbitration, 16 OHIO ST. J. ON DISP. RESOL. 735 (2001) (symposium article), *reprinted in*, ALTERNATIVE DISPUTE RESOLUTION IN THE EMPLOYMENT ARENA 479-503 (Samuel Estreicher & David Sherwyn eds., 2004).

Money, Politics and Judicial Decisions: A Case Study of Arbitration Law in Alabama, 15 J.L. & POL. 645 (1999), *reprinted in*, 30 CAP. U. L. REV. 583 (2002).

ADR in Cyberspace, 15 OHIO ST. J. ON DISP. RESOL. 589 (2000) (symposium article)(with Sarah Rudolph Cole).

Arbitration and Assimilation, 77 WASH U. L. Q. 1053 (2000).

Default Rules from Mandatory Rules: Privatizing Law Through Arbitration, 83 MINN. L. REV. 703 (1999).

LAW REVIEW ARTICLES (cont.)

Consumer Arbitration as Exceptional Consumer Law, 29 MCGEORGE L. REV. 195 (1998) (symposium article).

"Opt-In" for Judicial Review of Errors of Law Under the Revised Uniform Arbitration Act, 8 AM. REV. INT'L ARB. 263 (1997).

Arbitration and Unconscionability after Doctor's Associates, Inc. v. Casarotto, 31 WAKE FOREST L. REV. 1001 (1996).

Employment Arbitration and Voluntary Consent, 25 HOFSTRA L. REV. 83 (1996).

Punitive Damages in Arbitration: Contracting Out of Government's Role in Punishment and Federal Preemption of State Law, 63 FORDHAM L. REV. 529 (1994).

A Critique of the Reasonable Expectations Doctrine, 56 U. CHI. L. REV. 1461 (1989), reprinted in, 4 NAT'L INS. L. REV. 339 (1990).

OTHER PUBLICATIONS

Disorder in the court, Topeka Capital Journal, March 15, 2011.
<http://cjonline.com/opinion/2011-03-15/guest-column-disorder-court>

How does your state select its judges? Inside ALEC, March, 2011, at 9 (with Brian Fitzpatrick) http://www.alec.org/AM/PDF/InsideALEC_March2011_FINAL.pdf

Process for Selecting Judges is Undemocratic, WICHITA EAGLE, Aug. 22, 2010,
<http://www.kansas.com/2010/08/22/1457320/process-for-selecting-judges-is.html#ixzz0xR3EGEzp>

The Legal Structure of Securities Arbitration, in SECURITIES ARBITRATION 171 (PLI 2010).

Authorities Split After the Supreme Court's Hall Street Decision: What Is Left of the Manifest Disregard Doctrine? ENGAGE, March 2010, at 119 (with Marisa C. Maleck), http://www.fed-soc.org/doclib/20100331_WareMaleckEngage11.1.pdf

The Future of Commercial Arbitration, 9 PEPP. DIS. RES. J. 415 (2009) (with Richard Chernick, William F. Rylaarsdam & Thomas J. Stipanowich).

Open Up the Process of Picking Justices, WICHITA EAGLE, Jan. 23, 2009,
<http://www.kansas.com/opinion/story/673777.html> (reprinted OLATHE NEWS, Jan. 28, 2009, at 4A.)

OTHER PUBLICATIONS (cont.)

Professor questions judge selection, LAWRENCE JOURNAL WORLD, Dec. 8, 2007, http://www2.ljworld.com/news/2007/dec/08/professor_questions_judge_selection/.

Bar Has Too Much Power in Picking State's Justices, WICHITA EAGLE, Nov. 29, 2007, <http://www.kansas.com/205/story/240541.html>.

Five Reasons Why Contracts Teachers Should Consider Teaching an Arbitration Course, in EXPLORING THE BOUNDARIES OF CONTRACT LAW (Association of American Law Schools, Section on Contracts, 2005).

The Bankruptcy Abuse Prevention & Consumer Protection Act of 2005 in KANSAS BAR ASSOCIATION ANNUAL BANKRUPTCY INSTITUTE (2005).

ADR at KU Law and Reform of the Federal Arbitration Act, KU LAW MAGAZINE, Fall 2004, at 2 & 10.

Arbitration under Assault: Trial Lawyers Lead the Charge, CATO Institute Policy Analysis no. 433, April 18, 2002, <http://www.cato.org/pubs/pas/pa-433es.html>.

Arbitration: Different Types, Different Bodies of Governing Law, American Bar Association annual meeting, Dispute Resolution Section, April 5, 2002.

Trial Lawyers Fight Arbitration for Their Own Benefit, L.A. DAILY J., and S.F. DAILY J. Mar. 26, 2002, <http://www.cato.org/dailys/05-03-02.html>.

The Alabama Story: Arbitration shows law's connection to politics, culture, DISP. RESOL. MAG. 24 (Summer 2001), reprinted as *Arbitration: A License to Steal*, 12 WORLD ARB. & MED. REP. 316 (Dec. 2001).

Common Sense and Contracts Symposium: *The Gateway Thread*, 16 TOURO L. REV. 1145, 1180-81 (2000).

Truce possible in GOP-Dominated high court, BIRMINGHAM NEWS, Dec. 3, 2000, at 1C.

"Adhesion" Contracts Under the Revised Uniform Arbitration Act in ARBITRATION BEYOND 2000, THE REVISED UNIFORM ARBITRATION ACT: WHAT IT MEANS TO YOU (2000).

Recent Developments in Chapter 13 Cases (with Judge James S. Sledge) in CUMBERLAND SCHOOL OF LAW 11TH ANNUAL BANKRUPTCY LAW SEMINAR (2000).

OTHER PUBLICATIONS (cont.)

Public comment for United States Department of Commerce and Federal Trade Commission Joint Workshop on Alternative Dispute Resolution for Online Consumer Transactions, <http://www.ftc.gov/bcp/altdisresolution/comments/ware.htm>.

Gore will win if geographic theory holds, BIRMINGHAM NEWS, Apr. 2, 2000, <http://jurist.law.pitt.edu/forumnew10.htm>.

Arbitration Law in Alabama: Separability and Unconscionability, ALABAMA TRIAL LAWYERS ASSOCIATION JOURNAL, Fall 1999, at 22.

Arbitration Law in Alabama: Coming Issues, ALABAMA DEFENSE LAWYERS ASSOCIATION JOURNAL, Oct. 1999, at 17.

Arbitration breaks courts' monopoly, BIRMINGHAM NEWS, Aug. 22, 1999, at 3C.

Clerkships (with Todd J. Zywicki) and *Approaching the Job Market* in LAW SCHOOL AND BEYOND (1999).

Cutting Legal Costs Through Arbitration, BUSINESS ALABAMA, June 1999, at 47.

Basic Principles of Arbitration Law and Successful Challenges to Arbitration Agreements, in ARBITRATION OF CONSUMER FINANCIAL SERVICES DISPUTES 797 (1999).

Does a Court's Deference to an Arbitrator's Rulings Extend to Rulings on Whether the Dispute is Arbitrable?, 1994-95 PREVIEW OF UNITED STATES SUPREME COURT CASES 271 (1995).

Does a New York Choice-of-Law Clause in an Arbitration Agreement Preclude Recovery of Punitive Damages?, 1994-95 PREVIEW OF UNITED STATES SUPREME COURT CASES 157 (1994).

CITATIONS

Scholarship cited by the Supreme Court of the United States and in at least 17 other federal and state cases.

PRESENTATIONS

Elon University School of Law, Jan. 11, 2012.

Duke University School of Law, Jan. 11, 2012.

PRESENTATIONS (cont.)

Indianapolis Federalist Society, Jan. 10, 2012.

George Washington University, Nov. 8, 2011.

University of Limerick, Ireland, Nov. 5, 2011.

Southeastern Association of American Law Schools, July 29, 2011.

Federalist Society, Iowa Lawyers' Chapter, Feb. 22, 2011.

Northwest Republicans of Johnson County, Feb. 9, 2011.

American Bar Association, Dispute Resolution Section, CLE, April 8, 2010.

The University of Houston Law Center, Jan. 19, 2011.

Federalist Society, Law Professors Division, Jan. 7, 2011.

DePaul University College of Law, Chicago, IL, Nov. 8, 2010.

American Constitution Society, Washington, DC, Oct. 19, 2010.

Creighton University School of Law, Omaha, NE, Oct. 5, 2010.

University of Pittsburgh School of Law, Sept. 14, 2010.

Practicing Law Institute, New York, NY, Aug. 11, 2010.

Wichita Pachyderm Club, Aug. 6, 2010.

Wichita Bar Association, June 4, 2010.

American Bar Association, Dispute Resolution Section, April 8, 2010.

Santa Clara University School of Law, April 7, 2010.

University of Colorado Law School, April 6, 2010.

University of Memphis School of Law, March 16, 2010.

St. Mary's University of San Antonio School of Law, Mar. 3, 2010.

University of Nevada, Boyd School of Law, Feb. 13, 2010.

University of Nevada, Boyd School of Law, Feb. 11, 2010.

University of Florida School of Law, Feb. 3, 2010.

State Bar of Texas, Continuing Legal Education, Jan. 26, 2010.

PRESENTATIONS (cont.)

Texas Wesleyan University School of Law, Jan. 25, 2010.

St. John's University School of Law, Oct. 2, 2009.

Seton Hall University School of Law, Sept. 30, 2009.

Yeshiva University, Cardozo School of Law, Sept. 30, 2009.

Platte County, MO, Republican Party, Sept. 16, 2009.

Leavenworth County, KS, Republican Women, June 15, 2009.

Capital City Christian Chamber of Commerce, May 14, 2009.

Leavenworth County, KS, Republican Party, May 4, 2009.

Shawnee County Pachyderm Club, April 30, 2009.

Hope for America Coalition, April 21, 2009.

University of Missouri School of Law, Feb. 27, 2009.

Chapman University School of Law, Jan. 29, 2009.

Americans For Prosperity, Wichita, KS, Jan. 10, 2009.

Federalist Society Law Professors Division, Jan. 9, 2009.

St. Mary's University of San Antonio School of Law, Dec. 5, 2008.

Wichita Bar Association, Oct. 31, 2008.

Los Angeles County Bar Association, Oct. 22, 2008.

Federalist Society, Overland Park, KS, Oct. 16, 2008.

Southeastern Association of American Law Schools, Aug. 1, 2008.

Hamline University School of Law, April 10, 2008.

American Bar Association, Dispute Resolution Section, April 3, 2008.

University of Washington School of Law, April 2, 2008.

Judge Hugh Means Inn of Court, March 26, 2008.

University of Kansas, Students of Liberty, March, 25, 2008.

Americans For Prosperity, Manhattan, KS, Feb. 29, 2008.

PRESENTATIONS (cont.)

Americans For Prosperity, Leavenworth, KS, Feb. 27, 2008.

Vanderbilt University Law School, Feb. 8, 2008.

Americans For Prosperity, Great Bend, KS, Jan. 18, 2008.

Americans For Prosperity, Garden City, KS, Jan. 17, 2008.

Americans For Prosperity, Dodge City, KS, Jan. 17, 2008.

Federalist Society, Topeka, KS, Jan. 15, 2008.

Federalist Society, Overland Park, KS, Jan. 9, 2008.

Federalist Society, Wichita, KS, Dec. 4, 2007.

KLEAR annual retreat, Goddard, KS, Nov. 9, 2007.

George Mason University School of Law, Oct. 25, 2007.

Midwest Law & Economics Association, Oct. 13, 2007.

University of Minnesota School of Law, Oct. 12, 2007.

University of Missouri School of Law, Sept. 20, 2007.

Saint Louis University School of Law, Sept. 19, 2007.

American Bar Association, Dispute Resolution Section, April 28, 2007.

University of Cincinnati College of Law, March 30, 2007.

University of Nevada, Boyd School of Law, Jan. 26, 2007.

Washburn University School of Law, Mar. 9, 2006.

New York University School of Law, Nov. 29, 2005.

University of Kansas School of Law, Nov. 3, 2005.

Midwest Law & Economics Association, Oct. 14, 2005.

Association of American Law Schools, Conference on Contract Law, June 15, 2005.

University of Kansas Continuing Legal Education, June 10, 2005.

Illinois Advanced Judicial Academy, June 9, 2005.

United States Chamber of Commerce, Apr. 14, 2005.

PRESENTATIONS (cont.)

Kansas Bar Association Annual Bankruptcy Institute, Apr. 1, 2005.

Topeka Area Bankruptcy Council, Nov. 18, 2004.

Faulkner University, Jones School of Law, May 19, 2004.

Federalist Society Law Professors Division, Jan. 4, 2004.

Federalist Society, National Lawyers Convention, Nov. 13, 2003.

National Association of Insurance Commissioners, Mar. 10, 2003.

Association of American Law Schools, annual meeting, Jan. 3, 2003.

Duke University School of Law, Oct. 4, 2002.

Yale Law School, April 22, 2002.

American Bar Association, Dispute Resolution Section, April 5, 2002.

University of Miami School of Law, Mar. 2, 2002.

Federalist Society Law Professors Division, Jan. 3, 2002.

Lewis & Clark College, Northwestern School of Law, Oct. 5, 2001.

Hamline University School of Law, June 9-11, 2001.

Capital University Law School, Jan. 31, 2001.

University of Missouri, Oct. 20, 2000.

Samford University, Cumberland School of Law, Oct. 6, 2000.

Faulkner University, Jones School of Law, Sept. 12-13, 2000.

Southeastern Association of American Law Schools, Aug. 1, 2000.

American Bar Association, Dispute Resolution Section, Committee on Arbitration, July 8, 2000.

Federal Trade Commission/Department of Commerce, public workshop, June 7, 2000.

Faulkner University, Jones School of Law, Feb. 9, 2000.

University of Nevada, Boyd School of Law, Jan. 28, 2000.

Pace University School of Law, Jan. 21, 2000.

PRESENTATIONS (cont.)

Federalist Society Law Professors Division, Jan. 6, 2000.

Stetson University College of Law, Dec. 6, 1999.

Alabama Civil Justice Reform Committee, Nov. 2, 1999.

Cleveland State University, Cleveland-Marshall College of Law, Oct. 26, 1999.

Case Western Reserve University, School of Law, Oct. 25, 1999.

Faulkner University, Jones School of Law, July 23-24, 1999.

Practicing Law Institute, New York, NY, Feb. 22, 1999.

Faulkner University, Jones School of Law, Feb. 9, 1999.

Federalist Society Law Professors Division, Jan. 7, 1999.

College of William & Mary, School of Law, Nov. 6, 1998.

George Mason University School of Law, Nov. 5, 1998.

Southeastern Association of American Law Schools, July 1998.

Pennsylvania State University, Dickinson School of Law, Nov. 1997.

University of the Pacific, McGeorge School of Law, April 19, 1997.

Institute for Humane Studies, Fairfax, VA, July 8, 1994.

TEACHING

Commercial Transactions:

- Secured Transactions
- Payment Systems
- Sales (Domestic and International).

Bankruptcy/Debtor-Creditor

Contracts

Alternative Dispute Resolution:

- Arbitration
- Mediation
- Negotiation

**EXTERNAL REVIEWER FOR THE AWARD OF A CHAIR, PROMOTION OR
TENURE**

Vanderbilt University
University of Georgia
The Ohio State University
University of Colorado
University of Missouri
University of Kansas
University of Tennessee
Michigan State University
University of Louisville
Loyola University
University of Mississippi
University of the Pacific
Widener University
University of Memphis
Elon University

TESTIMONY (Federal)

United States Congress, House Committee on the Judiciary, Subcommittee on
Commercial and Administrative Law, Sept. 15, 2009.

United States Congress, Senate Committee on the Judiciary, Subcommittee on Antitrust,
Competition and Consumer Rights and Senate Special Committee on Aging, June 18,
2008.

TESTIMONY (State)

Iowa Legislature, House Judiciary Committee, Feb. 22, 2011.

Kansas Legislature, House Judiciary Committee, Feb. 16, 2011.

TESTIMONY (State) cont.

Missouri Legislature, Senate Committee on Governmental Accountability and Fiscal Oversight, March 12, 2009.

Kansas Legislature, House Judiciary Committee, Feb. 13, 2009.

Kansas Legislature, House Federal and State Affairs Committee, Feb. 21, 2008.

Missouri Legislature, House General Laws Committee, Feb. 20, 2008.

Kansas Legislature, House Judiciary Committee, Feb. 6, 2007.

Kansas Legislature, Senate Judiciary Committee, March 20, 2007.

TESTIMONY (Court)

North Carolina Superior Court, Wilmington, NC, June 28-29, 2011.

SERVICE TO UNIVERSITY AND LAW SCHOOL

Chair, Curricular Innovation Committee, 2011-2012

Chair, Faculty Appointments Committee, 2004-2008

Chair, Faculty Workshops Committee, 2008-09

Provost's sole Representative on Grievance Committee, 2001
(reviewing law school's only denial of tenure in over a decade)

Dean Search Committee, 2000-01

Chair, Loans and Scholarships Committee, 2001-02

University Committee on Faculty Rights, Privileges and Responsibilities, 2010-11,
Committee Appointee to Scholarly Misconduct Hearing

Policy Committee, 2000-01 (elected by law faculty to appoint other committees)

Student-selected Faculty Representative to Honor Code Hearing, 2007

Coach, ABA Representation in Mediation Competition, 2000-2004
(National Finalists 2000-01, Region Winners 2001-02)

SERVICE TO UNIVERSITY AND LAW SCHOOL (cont.)

Coach, National Moot Court Competition on Bankruptcy Law, 1998, 2003-2009, 2011

Co-Founder, Law & Philosophy Book Group, 2008 - present

Co-Director, Law & Economics Lunch Group, 2008 - present

Faculty Appointments Committee, 1997-2001, 2009

Academic Committee, 1997-98, 2002-04, 2010-11

Admissions Committee, 2010-11

Technology Committee, 2003-06

Advocacy and Clinical Education Committee, 1999-2001

Budget Committee, 1994-96

Judicial Clerkship Committee, 1994-97, 2002-03

Loans and Scholarships Committee, 1993-94

Strategic Planning Committee, 1996-97

Faculty Recorder, 1993-94

Faculty Advisor to Student Bar Association, 1994-2003

Faculty Advisor to Phi Delta Phi, 1993-94

Faculty Advisor to Federalist Society, 2003-present

Elected Law School Representative, University Faculty Executive Council, 1995-1996

University Academic Affairs Committee, 1994-96

PROFESSIONAL MEMBERSHIPS

Arbitrator, American Arbitration Association

American Bar Association:

- Section on Dispute Resolution

PROFESSIONAL MEMBERSHIPS (cont.)

- Section on Business Law
- Section on Legal Education.

Kansas Bar Association:

- Section on Alternative Dispute Resolution
- Section on Bankruptcy and Insolvency.

Admitted to practice, New York, 1991.

MEDIA APPEARANCES

Television, radio and print outlets including The Wall Street Journal, The New York Times, The Financial Times, The Washington Post and The National Law Journal.

CONSULTING

Summer 2011 re: arbitration

Spring 2011 re: arbitration

Fall 2010 re: arbitration.

Winter 2009 re: arbitration.

Winter 2007 re: indemnity and other risk-allocation clauses.

Winter 2006 re: patent law and dispute resolution procedures.

Fall 2004 re: Fair Credit Reporting Act and Real Estate Settlement Procedures Act.

Winter 2004 re: arbitration.

Fall 2003 re: arbitration.

Fall 2002 re: arbitration.

Spring 2002 re: negotiable instruments.

Spring 2002 re: consumer arbitration.

Fall 2001 re: punitive damages.

Fall 2000 re: consumer arbitration.

Spring 1999 re: employment arbitration.

CONSULTING (cont.)

Spring 1998 re: telemarketing.

Summer 1997 re: judicial review of arbitration.

Spring 1997 re: contract and consumer fraud.

Winter 1997 re: employment arbitration.

Winter 1997 re: contract law.

Summer 1996 re: insurance arbitration.

Spring 1995 re: statute of frauds.