

CONTRACTS DRAFTING

Course # 423A, CRN # ____

Fall semester 2020; one credit

Thursdays, 4:20 – 6:20 p.m., see schedule below

Prof. Steven E. Shube

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Office hours: By appointment

Required text: Tina L. Stark, *Contracts Drafting: How and Why Lawyers Do What They Do – 2nd Edition* (Aspen Publishers / Wolters Kluwer, 2014).

Course description / Learning Objectives: This Advanced Professional Skills course instructs the student, through written exercises, drafting assignments and real life examples, in applying the principles of contract law and contract drafting to planning, organizing, and preparing a written agreement that effectuates a client’s intentions. It also provides instruction and in-class (on-line) participation opportunities to foster the Western State College of Law Programmatic Learning Outcomes (attached), particularly with respect to analytical reasoning, effective communication skills, professional competency, and increasing awareness of professional integrity and ethical behavior as it relates to drafting contracts for transactions.

Zoom Sessions: Class sessions will be held on-line via Zoom. You must comply with the Zoom Session Requirements (attached).

Prerequisites: Contracts I & II

Required reading, with suggested approximate reading schedule:

<u>Class</u>	<u>Date</u>	<u>Topics</u>	<u>Read Textbook</u>
1	Aug. 20	Introduction; Translating the Business Deal into Contract Concepts; Parts of a Contract	Chapters 1-5
2	Sept. 3	Drafting Contract Parts: Preambles, Recitals, Words of Agreement; Definition Sections	Chapters 6-7
3	Sept. 17	Drafting Contract Parts: Action Sections, Representations and Warranties	Chapters 8-9
4	Oct. 1	Drafting Contract Parts: Covenants; Conditions; Discretionary Authority; Declarations	Chapters 10-12
5	Oct. 15	Drafting Contract Parts: Will vs. Shall; Review Chart; Endgame Provisions	Chapters 13-15
6	Oct. 29	Drafting Contract Parts: General Provisions; Signatures; Organizing Contract Provisions	Chapters 16, 17, 26
7	Nov. 12	Drafting Clearly, Unambiguously and Ethically; Review	Chapters 18-21, 30

Grades: Your grade will be based on: (1) your statistically scaled score on the final examination (70%), and (2) your statistically scaled total score on six weekly written assignments (30%). However, I require attendance, preparation, and participation, so your grade may be reduced by up to 10% if you do not prepare for, attend and actively participate in class. You will be dropped from the course if you miss more than the equivalent of two full hours of class sessions; missing any portion of any session will adversely affect your grade. You must personally sign the attendance sheet at each class session for your attendance to qualify.

Homework assignments: I will assign homework at the end of each class session, and the assignment is due prior to the beginning of the next class session. The first assignment will be due prior to the beginning of the second class. Please do your own work (i.e., do not work in groups). Because this is an advanced professional skills course, on average, reading, preparation and homework assignments may take approximately two or more hours for each hour of classroom instruction.

Final examination: The final examination will be a take-home exercise due by 12:00 p.m. P.S.T. on a date to be announced at the last class session. I will describe it further in the first class session, and will make the assignment available to you after the last class session but at least one week in advance of the due date.

Disability Services Statement: Western State College of Law provides accommodations to qualified students with disabilities. The Disabilities Services Office assists qualified students with disabilities in acquiring reasonable and appropriate accommodations and in supporting equal access to services, programs, and activities at Western State College of Law.

To seek reasonable accommodations, a student must contact Senior Assistant Dean Donna Espinoza, Student Services Director and Disabilities Services Coordinator, whose office is in the Students Services Suite #111. Dean Espinoza's phone number and email address are: (714) 459-1117; despinoza@wsulaw.edu. When seeking accommodations, a student should notify Dean Espinoza of her or his specific limitations and, if known, her or his specific requested accommodations. Students who seek accommodations will be asked to supply medical documentation of the need for accommodation. Classroom accommodations are not retroactive, but are effective only upon the student sharing approved accommodations with the instructor or professor. Therefore, students are encouraged to request accommodations as early as feasible with Dean Espinoza to allow for time to gather necessary documentation. If you have a concern or complaint in this regard, please notify Dean Espinoza; or please notify Dean Allen Easley at aeasley@wsulaw.edu or (714) 459-1168. Complaints will be handled in accordance with the College of Law's "Policy against Discrimination and Harassment."

Western State College of Law – Programmatic Learning Outcomes

Western State College of Law’s curriculum is designed so that every student achieves a level of competency prior to graduation in each of the eight Programmatic Learning Outcomes listed below:

(1) Doctrinal Knowledge

Students will demonstrate knowledge of substantive and procedural law in the core curriculum subjects, including Contracts, Criminal Law, Criminal Procedure, Torts, Real Property, Business Association, Evidence, Civil Procedures, Constitutional Law, Estates, Community Property, Remedies, and Professional Responsibility.

(2) Practice Skills

Students will demonstrate the development of other law practice skills. Each student’s chosen outcomes within this category will be varied based on the student’s particular interests, coursework and work experiences. They may include, but are not limited to, the following topics: oral presentation and advocacy; interviewing; counseling; client service and business development; negotiations, mediation, arbitration, or other alternate dispute resolution methods; advanced legal research and writing (excluding purely academic papers and the first four units earned in introductory first-year legal research and writing class); applied legal writing such as drafting contracts, pleadings, other legal instruments; law practice management or the use of technology in law practice; cultural competency; collaboration or project management; financial analysis, such as accounting, budgeting project management, and valuation; cost benefit analysis in administrative agencies; use of technology, data analyses, or predictive coding; business strategy and behavior; pre-trial preparation, fact investigation, such as discovery, e-discovery, motion practice, assessing evidence, or utilizing experts; trial practice; professional civility and applied ethics; a law clinic that includes a classroom component; or a legal externship that includes a classroom component.

(3) Legal Analysis

Students will demonstrate the ability to identify the factual and legal issues implicated by a fact pattern and to appropriately use cases (including identifying the salient features of an appropriate precedent case, identifying legally significant similarities or differences between the precedent case and a fact pattern and explaining why those are legally significant) and rules (including the ability to connect legally significant facts in a fact pattern to the rule) to predict how a court would decide the issue. Students will also demonstrate the ability to identify and evaluate the public policies of a precedent case or rule, and be able to evaluate how public policy can impact the application of a rule to the legal issue.

(4) Legal Research

Students will demonstrate the ability to locate relevant legal authority using a variety of book and electronic resources, and to properly cite to such legal authority.

(5) Communication

Students will demonstrate the ability to communicate both orally and in writing in a manner appropriate to a particular task to effectively convey the author or speaker’s ideas. This includes audience sensitivity in written and oral communication (the ability to adopt a tone, style and level of detail appropriate to the needs, knowledge and expertise of the audience); and written communication basic proficiency (the ability to use the conventions of grammar, spelling, punctuation, diction and usage appropriate to the task and sufficient to convey effectively the author’s ideas).

(6) Advocacy of Legal Argument

Students will demonstrate the ability, in both oral and written formats, to evaluate the legal, economic and social strengths and weaknesses of a case and use case and statutory authority as well as public policy to persuade others. Making policy-based arguments includes the ability to identify and evaluate the public policies of a precedent case or rule and their implications, and be able to assert such appropriate arguments to support a particular application or distinction of a precedent case to a legal controversy or a particular resolution of the application of a rule to the legal controversy.

(7) Client Sensitivity and Cultural Competency

Students will demonstrate an awareness of clients’ needs and goals, including a sensitivity to clients’ background and circumstances (including, but not limited to, socio-economic, gender, race, ethnicity, educational, disability and/or religious background(s)), the ability to make decisions that reflect an appropriate focus on those needs and goals, and awareness that cultural issues may affect the relevance of facts and application of the law.

(8) Legal Ethics

Students will demonstrate the ability to identify ethical issues in law practice contexts and make appropriate decisions to resolve such issues.

Zoom Session Requirements:

- Find a dedicated quiet space to attend Zoom sessions, to minimize the chances that you will be disrupted during the session.
- Arrive to class early and dressed as you would to attend an in-person class.
- Your camera must be turned on for the duration of the class. If desired, you can use the background settings in Zoom to create an artificial background that blocks the view of your space while still allowing you to be seen on camera.
- Come prepared, as you would for an in-person class. Participation in Zoom classes is as important as it is during an in-person class session.
- Do not multitask – stay focused on the class discussion – do not wander in and out of the Zoom session.
- If you have to miss a Zoom session, or arrive late or leave early, notify the professor in advance, as you would for an in-person class.
- If you have connectivity issues, whether it be long-term or short-term, that impact your ability to participate (e.g., if you are limited to dial-in without video), notify your professor so other accommodations can be explored.
- Do not post screenshots or recordings of any Zoom classes on social media. Such actions would constitute a violation of the Student Honor Code. If you need access to a recording of the Zoom session, please contact your professor.
- Sign into Zoom with the name under which you are registered for class. If you prefer to be called by a different name or nickname, please notify your professor in advance so you are not marked absent.
- Unless your professor instructs you otherwise, mute your microphone when you are not speaking. Unmute to speak or to ask or answer questions.
- Zoom classes are not YouTube or Netflix. You should be actively engaged in answering questions, taking notes, writing down questions you wish to ask later during class or during office hours, etc. This will not only help you stay engaged and participating in class, it will also help your learning in the online format.
- If you are using your computer to take notes and/or using an e-casebook, remember that you may not be able to easily switch between those apps and the Zoom session. This could undermine your ability to pay attention to the class discussion. Figure out how you will resolve that technological issue before your first class session and consider possible modifications to your normal note taking style (e.g., handwritten notes) or using a two-screen set-up.
- Zoom has a number of tools available to you as a student: yes/no symbols, raise hand and thumb icons, share screen (with permission of the professor), chat windows, etc. Please familiarize yourself with those tools before class so that you can use them as requested by the professor. Your professor will inform you about the ways in which you should use these tools in that particular class.
- Professors may use a number of interactive functions in Zoom to engage with students, e.g., polling questions, breakout rooms, as well as asking you to share your screen, type in the chat window. Like being called on in a live classroom, you are expected to participate fully in these activities and functions, i.e., answer polling questions, speak with your classmates in breakout groups, share your screen as requested, etc.