

A MANUAL OF STYLE FOR CONTRACT DRAFTING

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UPDATES AND CORRECTIONS

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¶ 2.29 I'd like to step back a bit from my categorical assertion that you shouldn't include a party's address in the introductory clause. If an agreement contains a "Notices" section, that's where addresses should go. But if the agreement doesn't contain a "Notices" section and one or more of the parties are individuals, I recommend that in the introductory clause you describe each individual as "an individual residing at" and state their address. If John Smith is party to a contract, the simplest way to distinguish him from all other John Smiths would be to include his address; if there's no "Notices" section, the logical place to put it is the introductory clause.

The same doesn't hold true for entities—to distinguish one Acme Corporation from any other, all you need to know is its jurisdiction of organization.

¶ 3.104 In my article *A Lesson in Drafting Contracts: What's Up with "Representations and Warranties"?*, Business Law Today, Nov.–Dec. 2005, I discuss in greater detail why instead of referring to "representations and warranties" you should just use "representations" (and "represents").

¶ 5.20 I should have included in sample 6 the signature block for an individual. (I've included one in the version of sample 6 that's in the revised set of samples available on my web site.) This is what the signature block for an individual should look like:

The parties are signing this agreement on the date stated in the introductory clause.

JANE DOE

¶ 7.77 I've revised my preferred definition of MAC by adding to it the word "liabilities." It now reads as follows: "*Material Adverse Change*" means any material adverse change in the business, results of operations, assets, liabilities, or financial condition of the Seller, as determined from the perspective of a reasonable person in the Buyer's position. This change is reflected in my article *A Legal-Usage Analysis of "Material Adverse Change" Provisions*, 10 Fordham Journal of Corporate & Financial Law 9 (2004).

¶ 7.95 Consistent with adding the word “liabilities” to my preferred definition of MAC, I would now delete the following sentence from this paragraph: “And whatever might fall within the scope of *liabilities* would be best addressed explicitly in the representations and conditions.” Simply put, it doesn’t make sense.

¶ 8.123 Here’s a typesetting glitch that wasn’t fixed: In sample [52b], the words *in excess of \$500,000* should be “dangling text” (as stated in 8.124) and so should be on a new line, flush left. In its current form, [52b] conveys the same meaning as [52a], which is not what was intended. Here’s what [52b] should look like:

[52b] *Acme shall not*
 (1) *incur any debt or*
 (2) *make any capital expenditure*
 in excess of \$500,000.

Chapter 9 My article *Debunking Urban Legends*, New York Law Journal, Dec. 2, 2005, contains a brief discussion of the use and abuse of “joint and several.”

In the future I will, as necessary, post any additional updates and corrections on www.adamsdrafting.com.

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