CONTRACT DRAFTING, FALL 2013

Kenneth A. Adams

COURSE CALENDAR

MSCD   Kenneth A. Adams, *A Manual of Style for Contract Drafting* (3d ed. 2013)

Topic	Class Content	Reading and Other Preparation
CLASS 1 (September 9)		
Introduction	Discussion of the state of contract drafting.	A representative example of traditional drafting provided by KAA (just to get the flavor); MSCD introduction; KAA NYLJ article *The Illusion of Quality in Contract Drafting* ([here](#)); KAA NYLJ article *The New Associate and the Future of Contract Drafting* ([here](#)).
The characteristics of optimal contract language	Discussion of what distinguishes contract language from other kinds of writing. Discussion of the implications of archaisms; problematic terms of art; the notion of "tested" contract language; redundancy; rhetorical emphasis; and repetition. Review of samples selected by students.	MSCD chapter 1. Students get from the SEC's EDGAR system (using Lexis) and bring to class contract samples displaying archaisms, redundancy, and rhetorical emphasis.
CLASS 2 (September 16)		
Categories of contract language	Discussion of the role of categories of contract language. Overview of the different categories and related verb structures. Discussion of "before" and "after" sample sentences, identifying the category of contract language involved and how to fix the verb.	MSCD chapter 3.

Topic	Class Content	Reading and Other Preparation
CLASS 3 (September 23)		
More categories of contract language	A written test (ungraded) to assess student comprehension, using additional "before" sample sentences.	
The front and back of the contract	Review of samples selected by students	MSCD chapters 1 and 5. Students get from the SEC's EDGAR system (using Lexis) and bring to class contract samples of suboptimal treatment of the front and back of the contract.
Layout	Introduction to the MSCD enumeration scheme and use of the Numbering Assistant to apply the MSCD enumeration scheme	MSCD chapter 4.
CLASS 4 (September 30)		
Defined terms	Discussion of mock contract prepared by KAA to highlight problematic treatment of defined terms	MSCD chapter 6. Review of mock contract prepared by KAA *[to be prepared]*
The role of copying in contract drafting	Discussion of the sources of contract language. Discussion of the role Koncision's confidentiality-agreement template will play in the course. (A large part of contract drafting is copying; it's essential that you're careful what you copy.)	KAA blog post about LegalZoom (here); KAA blog post about BigLaw model confidentiality agreement (here); KAA critique of Google merger agreement (here); KAA blog post about crowdsourcing contract language (here).
Issue spotting	Spotting issues relating to Acme's hiring of a mid-level executive; an employment-law partner from a New York law firm to participate *[to be selected].*	Transcript of voicemail message in which Acme's CEO outlines the basic terms *[to be prepared].*
Introduction to assignment 1 (drafting the Acme employment agreement)		Term sheet and precedent contracts (handed out in class) *[to be prepared].*

Topic	Class Content	Reading and Other Preparation
CLASS 5 (October 7)		
Ambiguity	Discussion of the sources of uncertainty in contract language. Discussion of examples of ambiguous language and how to fix them.	MSCD chapter 7, 10, 11, 12, index.
Vagueness	Discussion of appropriate and problematic vagueness. Review of samples of vague contract language selected by students.	MSCD chapter 7, index. Students get from the SEC's EDGAR system (using Lexis) and bring to class contract samples of vague contract language.
Introduction to assignment 2 (drafting the DraftingPro contract)		Transcript of voicemail message outlining the basic terms *[to be revised].*
CLASS 6 (October 14)		
More ambiguity	A written test (ungraded) to assess student comprehension, using additional samples of ambiguous language.	
Discussion of assignment 1		
Issues in boilerplate (1)	Discussion of particularly problematic provisions routinely found in the "boilerplate" provisions at the end of a contract. Groups of students to lead the discussion of different provisions.	Various KAA articles and blog posts.
CLASS 7 (October 21)		
Redrafting exercise	Discussion of extracts of an ABA model contract	
Introduction to assignment 3 (contract review)		Review of mock draft contract to spot errors and potential sources of confusion or dispute *[to be prepared].*

Topic	Class Content	Reading and Other Preparation
CLASS 8 (October 28)		
Issues in boilerplate (2)	Discussion of particularly problematic provisions routinely found in the "boilerplate" provisions at the end of a contract. Groups of students to lead the discussion of different provisions.	Various KAA articles and blog posts.
Discussion of assignment 2		
Discussion of assignment 3		
Introduction to assignment 4 (not-for-profit drafting project)		Review of materials relating to redrafting project. **[To be prepared; one potential candidate not-for-profit is Red Cross.]**
CLASS 9 (November 4)		
Ethics of drafting	Discussion of scenarios that raise ethical issues.	Duhl, The Ethics of Contract Drafting, WL 14 Lewis & Clark L. Rev. 989; related KAA blog post (here). Students to prepare scenarios that raise ethical issues.
Issues in boilerplate (3)	Discussion of particularly problematic provisions routinely found in the "boilerplate" provisions at the end of a contract. Groups of students to lead the discussion of different provisions.	Various KAA articles and blog posts.
CLASS 10 (November 11)		
Use of information technology in contract drafting	Screen-sharing demos by leaders of companies developing technology for the contract process.	Students to pose questions.

Topic	Class Content	Reading and Other Preparation
CLASS 11 (November 18)		
Panel discussion on practical issues in contract drafting	Webcam panel discussion with a four person panel from law firms and company law departments (invited by KAA), plus KAA. *Questions to be posed exclusively by students.*	Students to submit their questions online (the course portal or Google Docs), discuss among themselves how the questions should be edited. KAA to supervise as necessary.
CLASS 12 (November 25)		
Discussion of assignment 4 and preparation for conference call regarding assignment 4		
CLASS 13 (December 2)		
Conference call regarding assignment 4	Conference call with personnel of the not-for-profit organization to discuss our contract	Students to lead the discussion.