

# USC Gould

School of Law

## **Contract Drafting and Analysis – Spring 2021** *[revised as of 1/11/21]*

**Units:** 2

**Term/Day/Time:** Monday and Wednesday, 2 p.m. to 4:20 p.m. January 11 through February 17

**Location:** Remotely, via Zoom

**Instructor:** Michael Roster

**Office:** Remotely, via telephone or Zoom

**Office Hours:** By arrangement, in addition to optional one-on-one meetings with each student that will likely be held after Session 6.

**Contact Info:** [mroster@earthlink.net](mailto:mroster@earthlink.net) or [mroster@lawmail.usc.edu](mailto:mroster@lawmail.usc.edu)

### **Course Description**

This course requires you to learn from your own work and that of your classmates. As will be expected for the rest of your career, a key function of the course is to help you think independently and become professionally calibrated – that is, comfortable determining the relevant legal principles and then applying them to the client’s needs, priorities and circumstances. A wide range of resources will be available on Blackboard, but it will be up to you to use these and other materials as you think appropriate.

In this regard, the course is based on the concept of “learning by doing,” with the goal that students are functioning at a first-year attorney level or higher in contracts by the end of the course. Feedback will be similar to the types of performance reviews used at law firms and companies. Among other things, Prof. Roster was a law firm managing partner and practice group chair and then spent 14 years as a general counsel.

The course will start with an introduction to the standard terms and structure of a contract. Students will then examine a broad range of contracts in actual use (typical business agreement, law firm retainer letter, consumer credit card agreement, web site terms of use, etc.) and present to the class their assessment of why provisions were likely drafted as they were and what alternatives might be considered. Students will then draft a simple version of a contract and then write an opinion letter interpreting a complex contract. The final third of the course will be team presentations with the rest of the class functioning as the client’s CEO, CFO, general counsel and other senior managers.

The course will meet in ten intensive sessions on Monday's and Wednesday's from 2 p.m. to 4:20 p.m. and with the last session to be held on Wednesday, February 17. **NOTE: Class will not meet on Monday, January 18 (MLK holiday) and the session for Monday, January 20 has been canceled but with a session now added on Wednesday, January 27 which previously was to be a day off.**

Grading will be based upon (a) written assignments, which generally will be limited to a maximum of 3 to 5 pages in length; and (b) classroom participation in a law firm type setting, and later through the team projects and presentations. Students are free to elect non-numerical grade if they wish.

### **Learning Outcomes**

Functioning at a one-year attorney level or higher in contracts, as shown in the Law Firm Associate Competencies Chart as posted on Blackboard. Among other things:

- Able to assess a broad range of contracts for style, content and effectiveness for their specific purposes.
- Able to draft a basic contract including making decisions as to what is essential and what can be left out (professional calibration).
- Able to analyze a complex contract and apply the analytical and writing disciplines required when preparing a formal law firm opinion letter.
- Able to work as part of a team to draft a standard business contract and then brief the client.
- Functioning at a first- or even second-year lawyer level or higher in contracts.

**Prerequisite(s); co-requisite(s), or recommended preparation:** None

**Required Materials (e.g., textbooks or other):** None

### **Optional Materials**

Optional reading materials for effective writing, effective presentations, etc. are available with the course materials as posted on Blackboard.

### **Description and Assessment of Assignments**

A detailed chart of the knowledge and skills to be learned and assessed for each session and each of the four assignments is shown in the Session Schedule in the first folder on Blackboard.

### **Grading Breakdown**

Students may take the course, at their option, for a numerical grade or CR/D/F. A detailed chart of the factors and weightings for each of the four assignments is shown in the Course Assessment Factors and Weightings in the first folder on Blackboard.

### **Course-specific Policies**

The course is limited to 20 students. Students will need to have their cameras on when doing presentations, absent special circumstances discussed ahead of time with the instructor, as well as other segments involving student discussion.

### **COVID 19 Emergency Assistance Funds for Students**

See discussion below the session chart (from Fall Semester).

	<b>Topics/Activities</b>	<b>Readings and Homework</b>	<b>Assignment Dates</b>
<b>Sessions 1 and 2 – January 11 and 13</b>	Basics of a standard contract and contract drafting	Humpty Dumpty all-inclusive form of contract, annotated with questions.	Review the all-inclusive contract prior to the first session. Also consider prior to the first session the contract item preassigned to each student.
<b>Sessions 3 and 4 – January 25 and 27</b>	Analyzing an assigned type of contract	Prior to Session 3 students will prepare a memo and presentation re a preassigned type of contract. Sessions 3 and 4 will mostly consist of student presentations followed by comments by the instructor.	Memos due by 2 p.m. on <b>Sunday, January 24</b> for posting on Blackboard.
<b>Session 5 – February 1</b>	Drafting a simple contract	Prior to Session 5, students will select one of four client matters and prepare a draft contract and transmittal memo to the client. Session 5 will consist of discussion of the various drafts.	Drafts of contracts and transmittal memos due by 2 p.m. on Sunday, January 31 for posting on Blackboard.
<b>Session 6 – February 3</b>	Finish in-class discussion of simple contracts; begin preparation for writing an opinion letter interpreting a complex contract	The first portion of Session 6 will be a review of drafting principles. The remainder will be a discussion of how to interpret a complex contract and what is involved in writing a formal opinion letter.	Time will be set aside in class to start work on the opinion letters, and with the instructor available to answer questions.
<b>Session 7 – February 8</b>	Interpreting a complex contract	Prior to Session 7, students will review a complex contract and write a formal law firm opinion letter with their conclusions and analysis. The in-class session will be a review of the letters and the contract itself.	Opinion letters due by 2 p.m. on Sunday, February 7 for posting on Blackboard.

<b>Session 8 – February 10</b>	Work together in teams, allocate responsibilities, team drafting and team client presentations	After some introductory discussion, teams will meet in breakout sessions to start drafting their contracts and preparing for their in-class client briefings.	Draft contracts and other team materials for clients due by 2 p.m. on Monday, February 15 for posting on Blackboard.
<b>Session 9 – February 16</b> <i>(Monday classes held on Tuesday instead)</i>	Team presentations	What it's like to brief a client, and also to be the client.	
<b>Session 10 – February 17</b>	Course wrap-up	Putting it all together.	
<b>After final session</b>	Prepare payments and written feedback to each of the other teams	How to give feedback to colleagues.	Submit to the instructor payments and written feedback by 2 p.m. on Monday, February 22 for subsequent distribution to the other teams.

**COVID 19-Emergency Assistance Funds for Students (from Fall Semester)**

<https://we-are.usc.edu/faqs/faq-support-funds/>

USC has several resources available for students. Eligible students can apply for assistance from the COVID-19 Emergency Assistance Fund and the USC Student Basic Needs Department.

These webpages answer FAQs for each resource and describes important university resources for low-income students:

- 1) food insecurity (<https://studentbasicneeds.usc.edu/resources/food-insecurity/>)
- 2) housing insecurity (<https://studentbasicneeds.usc.edu/resources/housing-insecurity/>)
- 3) tech assistance (<https://studentbasicneeds.usc.edu/resources/technology-assistance/>)

**Statement on Academic Conduct and Support Systems (from template 10/23/20)**

**Academic Conduct:**

Plagiarism – presenting someone else’s ideas as your own, either verbatim or recast in your own words – is a serious academic offense with serious consequences. Please familiarize yourself with the discussion of plagiarism in SCampus in Part B, Section 11, “Behavior Violating University Standards” [policy.usc.edu/scampus-part-b](http://policy.usc.edu/scampus-part-b). Other forms of academic dishonesty are equally unacceptable. See additional information in SCampus and university policies on scientific misconduct, [policy.usc.edu/scientific-misconduct](http://policy.usc.edu/scientific-misconduct).

## **Support Systems:**

*Counseling and Mental Health - (213) 740-9355 – 24/7 on call*

[studenthealth.usc.edu/counseling](http://studenthealth.usc.edu/counseling)

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

*National Suicide Prevention Lifeline - 1 (800) 273-8255 – 24/7 on call*

[suicidepreventionlifeline.org](http://suicidepreventionlifeline.org)

Free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

*Relationship and Sexual Violence Prevention and Services (RSVP) - (213) 740-9355(WELL), press “0” after hours – 24/7 on call*

[studenthealth.usc.edu/sexual-assault](http://studenthealth.usc.edu/sexual-assault)

Free and confidential therapy services, workshops, and training for situations related to gender-based harm.

*Office of Equity and Diversity (OED)- (213) 740-5086 | Title IX – (213) 821-8298*

[equity.usc.edu](http://equity.usc.edu), [titleix.usc.edu](http://titleix.usc.edu)

Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants. The university prohibits discrimination or harassment based on the following *protected characteristics*: race, color, national origin, ancestry, religion, sex, gender, gender identity, gender expression, sexual orientation, age, physical disability, medical condition, mental disability, marital status, pregnancy, veteran status, genetic information, and any other characteristic which may be specified in applicable laws and governmental regulations. The university also prohibits sexual assault, non-consensual sexual contact, sexual misconduct, intimate partner violence, stalking, malicious dissuasion, retaliation, and violation of interim measures.

*Reporting Incidents of Bias or Harassment - (213) 740-5086 or (213) 821-8298*

[usc-advocate.symplicity.com/care\\_report](http://usc-advocate.symplicity.com/care_report)

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office of Equity and Diversity | Title IX for appropriate investigation, supportive measures, and response.

*The Office of Disability Services and Programs - (213) 740-0776*

[dsp.usc.edu](http://dsp.usc.edu)

Support and accommodations for students with disabilities. Services include assistance in providing readers/notetakers/interpreters, special accommodations for test taking needs, assistance with architectural barriers, assistive technology, and support for individual needs.