

**LAW-883
ADVANCED LEGAL WRITING FOR BUSINESS LAWYERS (FALL, 2021)
SYLLABUS**

PROFESSOR CONTACT INFORMATION

Professor: Janis Penton

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Office hours: I have flexible office hours and can meet before or after class. I will be in the classroom by 9 if you want to drop by or make an appointment in advance. You can also email me to make an appointment to meet on zoom or by phone.

COURSE DESCRIPTION

Students interested in transactional and business law practice areas will develop skills to communicate clearly, concisely, and correctly. This will include identifying the audience and objective; structure and organization; clarity; consistency; and “plain English” best practices. Students will gain experience drafting and editing to reinforce the concepts they are learning and discussing in class.

Students will practice these skills through exercises and simulations completed in and out of class, individually and collaboratively. These exercises and simulations include a variety of written communications, and are intended to help students improve their analytical, drafting, and editing skills and develop sensitivity to the expectations of attorneys, clients, and others with whom they work.

COURSE OBJECTIVES AND CONTENT

Legal practice is generally divided into litigation and “transactional.” The term ‘transactional’ often refers to structuring, negotiating, and drafting transactions but also includes a broader array of practice areas requiring advice and counseling that are unrelated to any specific transaction and often referred to as “business law.” This course is designed to reflect the types of assignments a young lawyer might receive in a broadly defined business practice. The semester is divided into two parts: Part 1 is designed to build a foundation to (i) write clearly, concisely, and unambiguously using “plain English” best practices; (ii) focus on the intended audience and the communication’s objective; and (iii) gain proficiency in the editing process; Part 2 focuses on analyzing, and drafting effective contractual provisions, including proper use of forms, templates, and ‘boiler-plate’ provisions through a group simulation exercise.

COURSE DETAILS

- **Unit Value:** 2
- **Grading Options:** Numeric Only
- **Schedule:** Wed 10:00 am - 11:40 am
- **Exam:** None
- **Writing Requirement:** No
- **Skills/Experiential Unit Requirement:** Yes
- **Participation:** Required and graded
- **Enrollment Limitation:** 12 students; JD only

REQUIRED MATERIALS

- **Books**
 - ‘Plain English for Lawyers’ by Richard Wydick (6th edition), ISBN-13: 9781531006990

(only a limited number of pages are assigned, but students may find this small paperback helpful for the semester and beyond)

- ‘Transactional Lawyering Skills’ by Richard Neumann, ISBN-13: 9781454822325
(only a limited number of pages are assigned, but students may find the entire book useful)

- **Other Materials:** other short readings are assigned and posted on blackboard.

ASSIGNMENTS AND GRADING

This course is graded numerically; there is no CR/D/F option. There is no final exam. Writing assignments will be discussed and completed as shown in weekly topics list below and as posted on blackboard. Grading will be allocated as follows:

- Memo 1: ungraded
- Memo 2: 20%, 50 pts max
- Email 1: ungraded
- Email 2: 20%, 50 pts max
- Contract simulation exercise writing assignments:
 - Issues memo to senior partner – 25%, 62.5 pts max
 - Issues email to client - 25%, 62.5 pts max
- Class participation 10%, 25 pts max
“Class participation” includes satisfactory and timely completion of ungraded assignments, class attendance, and participation in class sessions as well as participation in the class negotiation session.

Assignment due dates are shown in the Assignments tab on blackboard and will be included in weekly announcements. Per school policy, late submission will result in a proportionate point deduction on that assignment’s grade and no assignment will be accepted more than 72 hours late unless I have given prior written approval.

Please submit assignments via blackboard, in Word format, double-spaced, Times Roman 12 pt.

ATTENDANCE AND OTHER COURSE POLICIES

1. The class meets for 100 minutes once per week. Because much of what you learn will be by participating in class exercises and class discussions, attendance is mandatory. Students are allowed one unexcused absence.

2. Please try to arrive on time so we can begin on time.

4. I use blackboard for announcements, scheduling information, assignments, and other course materials; I will send edited work to you via email. I will send one or more announcements per week that include a reminder of the writing assignment or reading due the following week and the following week’s class agenda. The class blackboard page has separate tabs for Announcements, Syllabus, Weekly Content, and Assignments. The Weekly Content tab is divided into folders for each week. Each week’s folder includes the required reading, any additional materials, and that week’s slides; weeks with writing assignments reference the Assignments tab. The Assignments tab is divided into folders for each week with a writing assignment; each folder includes all the information necessary to complete the assignment.

5. Collaboration: You may collaborate on assignments only as indicated on the weekly topics, blackboard assignments tab, or as I state in class. Excluding assignments to be completed collaboratively and in-class peer review editing, you may not show (or read) any of your written work to anyone but me, and you may not look at another student’s the written work unless I expressly approve. All school academic integrity rules apply.

WEEKLY TOPICS, READING, ASSIGNMENT

Following is a general plan of topics we will cover in class. The details for each week including an approximate assignment schedule and schedule of readings follow the overview. These are subject to modification.

Overview of Weekly Topics

Week 1 August 25	Introductions, how this class will work
Week 2 Sept 1	Building a strong foundation for effective writing
Week 3 Sept 8	Drafting legal memos
Week 4 Sept 15	Drafting legal memos continued
Week 5 Sept 22	Drafting legal memos continued
Week 6 Sept 29	Drafting emails
Week 7 Oct 6	Drafting emails continued
Week 8 Oct 13	Drafting emails; letters in transactional practice
Week 9 Oct 20	Introduction to working with contracts – use of templates and forms Guest Lecturer – Learn to think like a litigator
Week 10 Oct 27	Introduction to working with contracts - boilerplate
Week 11 Nov 3	Contract Simulation – introducing the agreement and identifying issues
Week 12 Nov 10	Contract Simulation– getting ready to negotiate
Week 13 Nov 17	Contract Simulation – negotiating and drafting
Week 14 Nov 24	No Class; Happy Thanksgiving
Week 15 Dec 1	Contract Simulation – finalizing terms; semester wrap-up

Detail for Weekly Topics, Reading and Assignments

Prior to Week 1

- Write your bio including your academic background, where you grew up, work experience, extracurricular activities and what you like to do in your spare time. Also, tell me why you are taking this class and what you hope to get out of the class. Do not exceed 125 words.
- Read:
 - ‘Why lawyers can't write’ by Bryan A. Garner
http://www.abajournal.com/magazine/article/why_lawyers_cant_write
 - ‘Transactional Lawyering Skills,’ chapter 4, pg. 27-32

Week 1: Introduction

- Introductions
- How the class will work
- Class discussion of bio assignment
- ASSIGNMENT FOR WEEK 2:
 - Read: ‘How to Write Good Legal Stuff’ (University of Indiana), pg. 1 – 9, consisting primarily of lists.
 - Read *Plain English*: pg. 11-20 (except exercises 2, 3, 4); 23–25 (except exercise 6); 27-31 (except exercise 7); 33–36; 39–50 (except exercises 10, 11, 12).
 - Review Exercises 8 (6), 13(2), 15 (1) in *Plain English*. Sample answers are at the back of the book, but they are not the only nor even necessarily the best answers.

Week 2: Building a strong foundation

- Discuss ‘Plain English’ reading and exercises and University of Indiana article
- Using acronyms, buzz words and jargon
- Discuss assignment for Week 3
- ASSIGNMENT FOR WEEK 3
 - Read Gould Office Memo Handout (same as used in 1st year writing class)
 - *Transactional Lawyering*: read Chapter 5, pgs. 37-42

Week 3: Drafting Memos

- Discuss
 - Memo hand-out
 - Know your audience; who is the client
 - Understanding the facts and the question being asked
- ASSIGNMENT FOR WEEK 4:
 - Memo 1 to be sent to client’s in-house lawyer re: the meaning of the term “creditor” so client can decide how to handle a business unit (ungraded)

Week 4: Drafting Memos continued

- Discuss Memo 1 and actual response; discuss client goals and expectations
- Peer review exercise to edit Memo 1
- Discuss Memo 2 assignment
- ASSIGNMENT FOR WEEK 5:
 - Memo 2 to be addressed to partner in your firm re: drafting jury trial waiver provision in an equipment lease (graded)

Week 5: Drafting Memos continued

- Discuss Memo 2
- Peer review exercise to edit Memo 2
- ASSIGNMENT FOR WEEK 6:

- Read hand-outs on Emails:
 - ‘Emails in a Professional Legal Setting’ (same as used in 1st year writing class);
 - ABA for Law Students – ‘A young attorney’s most important writing: Emails’
- *Transactional Lawyering*: read Chapter 7, bottom of pg. 54 to bottom of pg. 56; Chapter 9, pg. 67-70; and Chapter 10, pg. 73- 74 (top), pg. 75 - 78

Week 6: Drafting Emails

- Discuss readings about emails
- Discuss emails
- ASSIGNMENT FOR WEEK 7:
 - Email 1: revise Memo 2 as an email to the client per the partner’s request re: jury trial waiver provision in an equipment lease. (ungraded)

Week 7: Drafting Emails continued

- Discuss Email 1
- Peer review exercise to edit Email 1
- ASSIGNMENT FOR WEEK 8:
 - Email 2: draft an email in response to the client inquiry re: drafting force majeure provision in a commercial lease during a pandemic. (graded)

Week 8: Drafting Emails continued; letters in transactional practice

- Discuss Email 2
- Peer review exercise to edit Email 2
- Learning when not to write an email
- Letters in transactional practice: engagement, regulatory requests (e.g. IRS private letter rulings; SEC no-action); third-party closing opinions and related practice
- ASSIGNMENT FOR WEEK 9:
 - Read *Transactional Skills: How to Structure and Document a Deal*, Sepinuck and Hilson (excerpt from chapter 3); review exercise 3-4 and separate answer

Week 9: Introduction to working with contracts – Use of Forms

- Introduce guest lecturer: Paul Hall, DLA Piper
- Learn to think like a litigator when drafting and reviewing contracts
- Use of forms and templates
- Discuss Exercise 3-4
- ASSIGNMENT FOR WEEK 10
 - Read *Transactional Skills: How to Structure and Document a Deal*, Sepinuck and Hilson (excerpt from chapter 4); review following exercises:
 - 4-1: also think about how the wording would change if there are multiple contracts between the same parties as part of a single transaction;
 - 4-15; and
 - 4-19: in addition to the questions asked in the chapter, think about the modes of communication available and why parties would or wouldn’t want to use any specific mode as well as appropriate send/receipt.

Week 10: Introduction to working with contracts - Boilerplate

- ‘Boilerplate’ provisions: what are they and why do we need them?
- Discuss Week 10 assignment and several types of boiler-plate provisions.
- Discuss upcoming simulation exercise
- Divide into groups: Buyer’s, Seller’s, and Bank’s counsel
- ASSIGNMENT FOR WEEK 11

- Review fact sheet for simulation exercise
- Review template Escrow Agreement recitals, Articles 6 and 20, and Sections 10(j), 11, 12, 13, 16, and 17 and begin to annotate focusing on your client
- By Week 13, Nov 17 read *Transactional Lawyering*: Chap. 12, pg. 91 – 95; Chap 13, pg. 97 – 100; Chap 14, pg. 103 – 108; and Chap 15 pg. 109-112 and 116.

Week 11: Escrow Agreement Simulation – introduction to the agreement and identifying issues

- Discuss:
 - What’s an Escrow Agreement; review template and fact pattern
 - Perspective of each party
 - Recitals and their importance
 - Defined terms
 - Distribution provisions – how and when the money is distributed
- ASSIGNMENT FOR WEEK 12
 - Individually prepare a memo to the partner in your firm (Issues Memo) listing the sections you reviewed that you think should be revised to reflect the underlying deal and your client’s best interests and redline your revisions. Limit to recitals, Articles 6 and 20, and Sections 10(j), 11, 12, 13, 16, and 17. Upload to Google docs before class Nov 10; submit to blackboard by 12:00 noon, Nov 11. This assignment will be graded.
 - By Week 13 read *Transactional Lawyering*: Chap. 12, pg. 91 – 95; Chap 13, pg. 97 – 100; Chap 14, pg. 103 – 108; and Chap 15 pg. 109-112 and 116

Week 12: Escrow Agreement Simulation – getting ready to negotiate

- Class discussion about escrow agreement – what provisions didn’t you understand
- Class discussion about negotiating

ASSIGNMENT FOR WEEK 13

- Individually prepare an email to the client (Client Issues Email) containing the same information as you included in the Issues Memo. Limit to recitals, Articles 6 and 20, and Sections 10(j), 11, 12, 13, 16, and 17. This assignment will be graded.
- By Week 13 read *Transactional Lawyering*: Chap. 12, pg. 91 – 95; Chap 13, pg. 97 – 100; Chap 14, pg. 103 – 108; and Chap 15 pg. 109-112 and 116

Week 13: Escrow Agreement Simulation – negotiating and drafting

- Class discussion – questions from the reading
- Meet in groups – simulate an in-person negotiation session among all parties.

ASSIGNMENT FOR WEEK 15

- No Assignment

Week 14: No Class, Happy Thanksgiving

Week 15: Escrow Agreement Simulation – finalizing terms and wrap-up

- Meet in client groups; complete negotiation; finalize contract terms
- Semester wrap-up

STATEMENT ON ACADEMIC CONDUCT AND SUPPORT SYSTEMS

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,”

<https://policy.usc.edu/files/2020/07/SCampus-Part-B-2.pdf>. Other forms of academic dishonesty are equally unacceptable.

Support Systems:

Student Counseling Services (SCS) – (213) 740-7711 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention. <https://studenthealth.usc.edu/counseling/>.

See also this guide for Gould students to facilitate access to mental health resources on campus:

<https://gould.usc.edu/assets/docs/directory/Mental-Health-Services-at-USC.pdf>

National Suicide Prevention Lifeline – 1 (800) 273-8255

Provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week. www.suicidepreventionlifeline.org

Relationship and Sexual Violence Prevention Services (RSVP) – (213) 740-4900 – 24/7 on call

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

<https://studenthealth.usc.edu/sexual-assault/>

Sexual Assault Resource Center

For more information about how to get help or help a survivor, rights, reporting options, and additional resources, visit the website: <https://eeotix.usc.edu/>

Office of Equity and Diversity (OED)/Title IX Compliance – (213) 740-5086

Works with faculty, staff, visitors, applicants, and students around issues of protected class.

<https://eeotix.usc.edu/>

Bias Assessment Response and Support

Incidents of bias, hate crimes, and microaggressions need to be reported allowing for appropriate investigation and response. <https://eeotix.usc.edu/>

The Office of Disability Services and Programs

Provides certification for students with disabilities and helps arrange relevant accommodations.

<https://dsp.usc.edu/>

Student Support and Advocacy

Campus Support and Information is where members of the Trojan Family go to seek support for themselves, for others, and for the community. It is a one-stop-shop for care and support, troubleshooting and advocacy.

<https://cwci.usc.edu/campus-support-and-intervention/>

If you are concerned about a fellow Trojan challenged with personal difficulties, you can file a report through Trojans Care for Trojans. The form can be found at: <https://campussupport.usc.edu/trojans-care-4-trojans/>.

Diversity at USC

Information on events, programs and training, the Diversity Task Force (including representatives for each school), chronology, participation, and various resources for students. <https://diversity.usc.edu/>

Gould-specific information can be found at <https://gould.usc.edu/about/race-equity/> (Law, Race and Equity page) and <https://gould.usc.edu/students/diversity/> Students can submit anonymous EDI-related comments/complaints through the law portal: <https://mylaw2.usc.edu/about/contact/anonymous-comments>

USC Emergency Information

Provides safety and other updates, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible. <https://emergency.usc.edu/>

USC Department of Public Safety – *UPC: (213) 740-4321 – HSC: (323) 442-1000 – 24-hour emergency or to report a crime.* Provides overall safety to USC community. <https://dps.usc.edu/>