Construction Industry Contracting and Dispute Resolution Practices

Carl Circo

**Basic Information**

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| class meeting details  [e.g., in-person meeting times, remote schedule information] | Class Structure:    Experiential, simulation course |
| Instructor Contact: | Office Hours: |

**Other General Information**

This syllabus provides basic information about course requirements, policies, grading, and the main topics covered. All reading assignments will be available either on Blackboard or through a database available you.

Learning Objectives. Through a series of lessons, projects, and exercises, including a major project due around the end of the term, you will have the opportunity to develop and demonstrate the fundamental skills required of those specializing in construction industry contracts, negotiations, and dispute resolution. When you have completed this course, you should be able to advise and assist clients in: (1) selecting and preparing standard design and construction contracts; (2) negotiating contract terms and agreements appropriate to the client and project circumstances; and (3) conducting settlement negotiations and preparing for mediation, arbitration, and litigation of common industry disputes. This course approaches these skills from the perspectives of different industry participants, including project owners, designers, general building contractors, specialty contractors, subcontractors, suppliers, and construction lenders.

**Assigned readings and related resources**

Assigned readings. As noted above, the main reading assignments will be announced and accessed via Blackboard and databases available to you. We will frequently refer to contract forms promulgated by industry groups, such as the forms published by the American Institute of Architects (AIA) the Engineers Joint Contracts Drafting Committee, ConsensusDocs, and other industry organizations.

General resources. Two comprehensive and practical resource available to the construction bar are Philip L. Bruner & Patrick J. O’Connor, Jr., Bruner and O’Connor on Construction Law, which is available on Westlaw, and Steven G. M. Stein, Construction Law, which is available on Lexis. Westlaw and Lexis regularly update these multi-volume treatises. The best sources for current practice articles are the ABA Forum on Construction Law’s journal, The Construction Lawyer, and the American College of Construction Lawyers Journal, both of which you can access on Westlaw. Many of the assigned readings will draw from these resources.

**Grading**

Grading will be based on (1) performance on assignments (simulations and practical exercises) that I designate for grading points (approximately 70% of the final grade), and (2) quizzes, which will primarily assess your comprehension of the recorded lectures and assigned readings (approximately 30% of the final grade). The grading process will include written feedback on assignments.

Some assignments will require that you (either individually or as part of a group of students working together) submit written work product or record working group sessions. Many of the assignments will place you in the simulated role of a lawyer advising a participant in a construction project. My grading standard for all assignments will reflect what I would expect from a lawyer with basic understanding of the legal aspects of the construction industry. **Your enrollment in the course constitutes your consent to have your performance recorded, shared, and critiqued with others. Note that because this is an experiential course designed to teach practice competencies, you will spend much of your time developing and practicing skills that are important for construction lawyers to master.**

*Artificial Intelligence:* Artificial intelligence may not be used to generate content for quizzes or any graded assignments (unless otherwise specified). Any use for those purposes will be treated as serious violations of professional ethics and the Student Code of Conduct. During the semester, we will take some time to discuss how artificial intelligence might be useful for purposes of learning construction law or in the practice of law. We may also have an opportunity to experiment with artificial intelligence as a negotiating tool.

**Blackboard**

For general course management purposes, I will use Blackboard, and you should consult Blackboard regularly throughout the semester for important course information and announcements. This will include, among other things, a copy of this syllabus and supplemental information about assignments.

**Outside Preparation**

In accordance with ABA requirements and law school policy, the structure of this course anticipates that for every hour of recorded lecture time you should spend an average of at least two additional hours reading, reviewing, preparing for or conducting assigned exercises, studying, or otherwise engaging with course materials.

**Contacting Me Outside of Class**

You may contact me by email to schedule a virtual appointment, or you may ask questions via email. Please allow adequate time for me to respond to your messages. Questions sent via email can be especially helpful because they allow me to consider whether the topic raised is something that I should address in class. I am also available to meet with groups of students who are working together on any assignment for which group work is specifically permitted.

**[Add relevant institutional information, such as regarding disability accommodations, student services, and other procedural or policy matters]**

**Lessons and Main Reading Assignments**

Each Lesson consists of a series of [recorded] lectures [in-class discussions,] and assigned readings and concludes with graded assessments (quizzes, projects, exercises).

Lesson 1 (approximately one-third of the course) Industry Contracting Practices, including: contemporary contract structures for complex commercial matters; contract drafting principles; the structure of standard industry contracts; major design and construction contract provisions (scope of services or work, performance standards, division of responsibilities, representations and warranties, contract administration, claims and disputes, relationships with other participants in the network of project contracts).

[Include specific reading assignments and assessments.]

Lesson 2 (approximately one-third of the course) Negotiating on behalf of project owners, design professionals, contractors, subcontractors, and suppliers, including: basic negotiating principles and skills; contractual allocation of the most significant risks involved in construction projects; and informal negotiations to settle claims and to avoid or manage conflict.

[Include specific reading assignments and assessments.]

Lesson 3: (approximately one-third of the course) Construction Industry Dispute Resolution Practices, including: selecting the most appropriate dispute resolution process for the project; stepped dispute resolution options; mediation; arbitration; and litigation.

[Include specific reading assignments and assessments.]