Course Objective: to provide students with experience in drafting and negotiating basic corporate documents typically encountered in a business oriented practice. The skills you will gain will be applicable to any transactional practice and will even be useful to litigators. On finishing the course, you will know

- the business purpose of each of the contract concepts;
- how to translate the business deal into contract concepts;
- how to draft each of a contract’s parts;
- how to draft with clarity and without ambiguity;
- how to add value to a deal;
- how to work through the drafting process; and
- how to review and comment on a contract.

Professionalism: You are expected to conduct yourself in a professional manner during class and in your dealings with me and with your classmates. Your punctual attendance, thorough preparation and active participation is required and may contribute to your final grade.

The rules of the New York State Court of Appeals, the American Bar Association, and the Law School all require law students to be in good and regular attendance in the courses for which they are registered. To comply with these rules, you must attend at least 85% of our regularly-scheduled classes. Thus, you may miss no more than 3 hours and 30 minutes of class time.

If you believe you must be absent from more than the permitted number of classes, you should contact the Office of Student Affairs as soon as possible. Accommodations may be made for students who must be absent for religious reasons and in cases of truly compelling hardship. Any request for an exception must be made to the Office of Student Affairs (not to me) and must be accompanied by appropriate documentation.

I will provide sign-in sheets for each regularly-scheduled class, which shall be the dispositive evidence regarding your absence from a given class. Each student is responsible for signing in during class time; you may not sign in after class has ended. Falsification of sign-in sheets is a violation of the Code of Academic Conduct and can lead to failing the course.

If you exceed the permitted absences by failing to sign in for more than 3 hours and 30 minutes of class time, your name will be sent to the Office of Student Affairs and you will be subject to administrative withdrawal from the class. Any such withdrawal may have serious ramifications for your financial aid, academic standing, and date of graduation.
You may receive no prior notice, so please keep close track of your attendance.

Those who are late to class or unprepared may be treated as absent. I reserve the right, in my discretion, to raise or lower your grade by a +/- to reflect your attendance, preparation and participation. **You are not permitted to tape record this class.**

**Office hours:** My office is Room 214; my office phone number is (516) 463-4538. My office hours for the fall are Tuesdays from 12-1 PM or by appointment. To make an appointment outside of my office hours, please call or email me at Miriam.r.albert@hofstra.edu and we can set up mutually convenient time.

**Class web page:** You are required to register on the TWEN site for this class with an email address that you check regularly; go to [www.lawschool.westlaw.com](http://www.lawschool.westlaw.com) and select “TWEN” from the menu of items along the top of the page next to the current date. You will then be asked for your Westlaw password and for registration information (including your email address – this need not be the address issued by the Law School). To maximize the effectiveness of the TWEN system, please be sure to provide all requested information. You will then be given the opportunity to register for the TWEN website dedicated to this course (by choosing “Drop/Add a Course”).

The website facilitates the exchange of ideas and provides interested students with an opportunity to participate in online discussions. Registration and participation are an essential part of this course. Students should check the website regularly; I will post the slides for class on TWEN under the “slides” tab.

**How the course works:** For purposes of this course, you are a newly-hired junior associate at Albert & Lyman LLC, the firm where I am a fancy name-on-the-letterhead partner. I am paying you an absolute fortune and I am very demanding. And although I am hugely famous and wildly successful, I am still interested in the professional development of my junior associates.

I have just landed a new client, an unpleasant woman named Ava Ruby. She buys and sells multi-million dollar companies, and despite her immense wealth, she is horribly cheap. She is quite rude, and also nowhere near as smart as she thinks she is, or as pretty for that matter. That said, I want to keep my corner office, so my main mission in life is to keep her happy. And for this semester, that will be your mission as well.

We will be working on a number of projects for Ava, including an Asset Purchase Agreement. During the semester, we will be drafting many of the related agreements, and many of the typical closing documents. We will prepare some of the closing documents before drafting the final Asset Purchase Agreement which would be atypical in the real world; but it evens out the work load during the semester.

I, like many senior partners, expect that you will read my mind and draft a document exactly the way I would. Of course, I am far too busy and self-important to actually draft the documents, or even to give you forms. I give you assignments, and you go from there.
[Unlike a real senior partner, I am actually a teacher and will be happy to answer your questions...]

This is not a research course - but you will have to do some research to figure out what statutory requirements are relevant, and what forms to use. By the end of the semester, you should have a portfolio of documents – the seeds of your “form file” that you will hopefully refine and modify as you progress through your career.

**Course grade:** The course will be graded on the basis of in-class presentations [10%], weekly drafting assignments [70%], and class participation [20%].

**Reading assignments:** we are not using a text book this semester, but rather will read a variety of articles and book excerpts, as well as my sometimes voluminous slides. I will post the required readings for each class in advance of our class meetings on the “Reading Assignment” tab on our TWEN site.

**Explanatory memos:** For each drafting assignment, some percentage of the available points for each assignment will be allocated to the documents you draft and some will be allocated to the explanatory memo. The explanatory memos for assignments #1 and #2 will be graded on a pass/fail basis and assignment #12 has no explanatory memo but has a “wish list” instead. Remember, you client is very unpleasant and demanding, so you will need to be careful in how you deal with her. You want to explain the provisions as clearly and concisely as possible. Your memos should explain to the client the nature and purpose of the documents you have drafted for her, walking her through the various provisions. You should explain to her how the provisions work and how they accomplish her goals.

**Time Sheets:** for each drafting assignment, you **must** include a new time sheet, detailing exactly what you did and how long each component of the task took you. In the real world, without a clear and detailed time sheet, you might not get paid. In our world, without a clear and detailed time sheet, you might not get full credit for the assignment!

**Drafting assignments:** the schedule of drafting assignments is set out below; for each assignment, you will receive a memo from me as your senior partner, detailing the business terms and the required deliverables, along with the points available for each assignment and the due date. All the assignments except the final assignment have two parts- the actual documents that you draft, and the explanatory cover memo to our client, explaining the provisions of the documents.

All drafting assignments should be typed using standard margins. Choose your language carefully- in the real world, typographical and grammatical errors make an otherwise presentable document look shoddy, and in our world, such mistakes will bear on your grade.

In order to earn full credit on any drafting assignment, please give me a hard copy, and email a copy to me as well, prior to the start of the class when the assignment is due.
Your grade on each written assignment will be based on the following criteria:

- Did you complete the assignment as required, in a timely fashion?
- Does your work reflect a substantive understanding of the assignment?
- Did you choose appropriate forms on which to model your work?
- Do your documents make sense, together and separately?
- Did you provide a coherent explanation to the client of the salient provisions in an explanatory memo?
- Did you show good attention to detail, producing work with no typos, no blanks, and no inconsistent provisions?
- Do your documents comply with any required statutory authority?
- Do your documents reflect the client’s request?
- Would your documents work in the real world?

**In class presentations:** each of you will have several opportunities to present your drafting product to the class. At our first meeting, I will circulate a schedule showing your assigned presentation dates. On your assigned days, you will walk the class through the agreement you have drafted. The rest of the class will serve as opposing counsel and highlight the other side of the various issues raised in the draft.

As in the real world, you are responsible for the presentation on the days you sign up for. If you cannot attend class for some reason on those days, is it your responsibility to find someone to switch with you, or cover for you- you will receive your grade based on that classmate’s performance. If you do not arrange for someone to cover your presentation, you will receive no credit for that presentation.

**Class participation:** With respect to class preparation and participation, class members are expected to read and understand the assigned readings and posted slides so that they may engage in an informed discussion of those materials, and in an informed discussion of your colleagues’ work and presentations. Whenever a statutory section is cited in the text, class members should analyze and brief that section as part of their class preparation. Look up terms you are unfamiliar with.

**Out of class preparation:** The American Bar Association requires that you spend at least four hours per week, on average, outside of class studying for this 2-credit course. This is in addition to the 200 minutes per week we spend in class. (The ABA has a formula for determining the requirement. In other courses, the required number of out-of-class hours may be different.) I have estimated the required minimum preparation time to be 8 hours per week outside of class time.

**Writing requirement II:** Law School policy dictates that for this course to satisfy writing Requirement II, the cumulative writing must be at least 20 pages of “substantial drafting” of among other choices, contracts and corporate documents. The minimum acceptable grade for Writing Requirement II is C+. The grade of C+ must be for the drafted documents, not a course grade that has been increased to reflect class participation.
A word of warning: you will have no trouble finding forms for the documents you will draft – (form books in the library, on line, exhibits to public documents filed with the SEC, McKinney's and Bender forms, BNA etc.). But **NEVER** put anything in a document that you don’t understand, even boilerplate provisions. You will need to explain it all to your crabby client in writing in your explanatory memos, and on several occasions to your class, so make sure you understand it yourself.

Another word of warning: while you are free to select forms from any source on earth, you may not collaborate with your colleagues here at Hofstra, or anyone else for that matter, unless I specifically authorize it.

Learning objectives: the following should be your goals as students. They are the benchmark against which you will be evaluated throughout this course. By the end of this course, students should have:

1. demonstrated the ability to:
   
   (a) write analytically and persuasively; and  
   (b) draft legal documents such as contracts, statutes, client communications, opinion letters and the like.

2. demonstrated proficiency in:

   (a) strategic planning: developing a plan to accomplish a goal;  
   (b) problem solving in light of a client’s objectives: anticipating consequences and assessing risks;  
   (c) recognizing the most common ethical and professional liability dilemmas and resolving them with high professional standards;  
   (d) negotiating in both dispute and transactional contexts;  
   (e) working collaboratively;  
   (f) learning from experience through self-critique;  
   (g) managing projects within time and resource limitations;  
   (h) presenting orally outside of litigation; and  
   (i) using technology in legal practice.

Class #1: August 24
- **Topic:** forms of business organization; incorporation housekeeping tasks;  
- **Drafting assignment due:** none

Class #2: August 31
- **Topic:** Introduction to drafting, contract terminology and parts of a typical contract; Shareholder issues in closely-held corporations; buy/sell agreements  
- **Drafting Assignment #1 due:** Certificate of Incorporation, bylaws, written consent from the organizational meeting
Class #3: September 7
- **Topic:** Shareholder issues in closely-held corporations; voting trust agreements; other protections for minority shareholder interests
- **Drafting Assignment #2 due:** Shareholders Agreement

Class #4: September 14
- **Topic:** Introduction to business combinations; letters of intent; confidentiality concerns
- **Drafting Assignment #3 due:** Voting Trust Agreement

Class #5: September 21
- **Topic:** Acquisitions mechanics: the due diligence process; commenting on drafts
- **Drafting Assignment #4 due:** Letter of Intent

Class #6: September 28
- **Topic:** Employment issues
- **Drafting Assignment #5 due:** Due diligence checklist; mark up and comment [using track changes] on the provided draft of employment agreement

Class #7: October 5
- **Topic:** Financing the acquisition: debt; promissory notes
- **Drafting Assignment #6 due:** Employment Agreement

Class #8: October 12
- **Topic:** Financing the acquisition: blank check preferred stock
- **Drafting Assignment #7 due:** Promissory Note

Class #9: October 19
- **Topic:** Financing the acquisition: escrow agreements
- **Drafting Assignment #8 due:** Certificate of Designation

Class #10: October 26
- **Topic:** Closing documents: legal opinions
- **Drafting Assignment #9 due:** Escrow Agreement

Class #11: November 2
- **Topic:** Closing documents: transfer documentation
- **Drafting Assignment #10:** Legal Opinion

Class #12: November 9
- **Topic:** Negotiating and closing the deal
- **Drafting Assignment #11:** Bill of Sale

Class #13: November 16
- **Topic:** Client interviewing, negotiation and counseling
Class #14: November 30

- **Out of class exercise:** negotiate Asset Purchase Agreement and other closing documents with your counterparty

NOTE: Drafting Assignment #12 is due on Dec 7 at 12 PM