

CONTRACT DRAFTING WITH KEN ADAMS

Program Director

Kenneth A. Adams
*Author, A Manual of Style for
Contract Drafting*

LOCATION (In Person)
**Osgoode Professional
Development**

1 Dundas St. West, 26th Floor
Toronto, ON

Develop and further refine your drafting skills in engaging courses – either **in-person** OR **online** – taught by the leading authority in contract drafting, **Ken Adams**.

In Person Programs

Drafting Clearer Contracts (Oct 23)

*A Comprehensive and Disciplined Approach to
Drafting Agreements*

- Efficient and less efficient contract usages
- Mastering how to lay out the body of the contract
- Using defined terms
- Different kinds of ambiguity and how to avoid them

Optional Advanced Workshop (Oct 24 - AM)

The Categories of Contract Language

- In-depth analysis on the categories of contract language
- How to effectively and efficiently identify problems with pre-existing contract language
- Apparent (and not so apparent) drafting errors

Online Webinar Series

In **five** accessible online modules, choose one or all including:

- Session 1: November 16, 2017 (12pm - 1pm/EST)
The Front and Back of the Contract
- Session 2: November 23, 2017 (12pm - 1pm/EST)
The Body of the Contract – Categories of Contract Language
- Session 3: November 30, 2017 (12pm - 1pm/EST)
Ambiguity, Vagueness & Defined Terms in Contract Language
- Session 4: Dec 7, 2017 (12pm - 1pm/EST)
Selected Usages – Problematic Words and Phrases in Contracts
- Session 5: December 14, 2017 (12pm - 1pm/EST)
Drafting as Writing; Layout and Typography in Contracts



Program Director



Kenneth A. Adams

Author, A Manual of Style for Contract Drafting

KENNETH A. ADAMS is the leading authority on contract language.

According to *The Lawyers Weekly*, "In the world of contract drafting, Ken Adams is the guru." Ken's book, *A Manual of Style for Contract Drafting* is one of the ABA's best-selling titles and has become an essential resource for contract drafters. He gives public and in-house seminars in the US, Canada and internationally. Ken also frequently acts as a consultant and expert witness.

From 2006 to 2012, Ken was a lecturer in law at the University of Pennsylvania Law School, where he taught the school's first course on contract drafting. As part of its Legal Rebels project, in 2009 the ABA Journal named Ken one of 50 leading innovators in the legal profession. In 2014, the Legal Writing Institute awarded Ken the Golden Pen Award "to recognize his exemplary work in contract drafting." The Golden Pen Award honors those who make significant contributions to advance the cause of better legal writing.

After graduating from the University of Pennsylvania Law School, Ken practiced corporate law at major law firms in the U.S. and Europe. His website and blog are www.adamsdrafting.com.

What people have said about past Ken Adams programs:

"Ken's passion about the subject is very obvious and contagious. This is one of Osgoode's best offerings."

G. Cruz, Counsel, CUMIS Group Limited.

"Ken Adams forces you to face, in a clear-eyed manner, the redundancies, inefficiencies, anachronisms, inconsistencies and imprecisions that weaken contract drafting at even the best firms."

Bryn Vaaler, Professional Development Partner,
Dorsey & Whitney LLP

"This is the first CLE event where I hung on every word of the speaker."

C. Serianni, Gilead Sciences Canada Inc.

"Ken is an engaging and spirited lecturer who made a full day of drafting both entertaining and useful. This is likely one of the best CLE's I have ever attended."

M. McGugan, City of Mississauga Legal Services

"Ken's enthusiasm 'brings life' to what could otherwise be a dry topic."

Caron Ferguson Eagan, Nova Scotia Barrister's Society

"Ken is a definite expert. His passion for contract language perfection is quite unique and valuable."

Lev Gendelman, Husky Injection Moulding Systems Ltd.

Contract Drafting with Ken Adams

Effective contracts are the cornerstone of most business relationships and transactions. Too often, an ill-equipped drafter's reliance on precedents results in contracts that fail to meet an organization's legal or business needs. And when they're called upon to be creative – maybe even draft something from scratch – many contract drafters are unable to produce concise content that works.

OsgoodePD's *exclusive* contract drafting programs, designed and delivered by **Ken Adams - the leading authority in contract drafting** - will provide legal professionals, contract managers and contract drafters, with a **comprehensive** and **disciplined** approach to contract drafting.

Drafting Clearer Contracts, *A Comprehensive and Disciplined Approach to Drafting Agreements*, the focus is not on what to include in a contract, but how to express it clearly and effectively. Ken Adams has developed a **thoughtful** and **rigorous** curriculum that will benefit all, whether junior or more experienced.

Whether you choose to attend **in-person** OR **online**, using common contract language and provisions, Ken will discuss the flaws in many standard contract provisions and recommend alternatives that are more **concise** and less prone to confusion.

Designed to meet your needs, you can choose to take one, several or all of the webinar sessions. Special series pricing provides the most **value**, and sessions are spread out to allow you to participate with minimal incursion on other commitments. Plus - if you miss the live session, you have access to the program on demand for up to 60 days after the program date.

BONUS! For those attending in-person or who have purchased the complete series, course materials include a copy of Ken Adam's book, *A Manual of Style for Contract Drafting* (3rd Edition), one of the ABA's best-sellers. It's the only book of its kind, and has become a valued resource to the legal profession.

Register today at:

osgoodepd.ca/contractdrafting

NEW! Advanced Workshop - *The Categories of Contract Language*. Over one intensive morning, you will take a deep dive into what is generally regarded as the foundation of the Adams' approach to contract drafting – the categories of contract language.

In this interactive half-day workshop, you'll refine your ability to recognize the different kinds of meaning conveyed in contracts, and how to use verb structures to convey them clearly, concisely and consistently. This **learn-by-doing** training will include hands-on exercises and analysis of representative commercial contracts.

Attendees for this advanced program **MUST** have either have attended or viewed Ken's Drafting Clearer Contracts program/webinar series, or be familiar with the analysis of categories of contract language contained in his book.

Enrollment will be limited to ensure a quality experience. Space fills up quickly, so register now.

Who Should Attend?

- In-house Counsel
- Business lawyers
- Government counsel
- Corporate solicitors
- Contract Managers and Administrators
- Senior executives and Managers
- Law Clerks
- Paralegals
- Legal professionals who regularly interpret, draft or negotiate contracts

In-Person Programs

October 23, 2017
9:00 am – 5:00pm

Drafting Clearer Contracts *A Comprehensive and Disciplined Approach to Drafting Agreements*

The State of Contract Drafting

- Costs and causes of deficient drafting
- Goals for the course

The Front and Back of the Contract

- Title and introductory clause
- Function and layout of recitals
- Traditional recital of consideration
- Concluding clause
- Role of exhibits and schedules

Categories of Contract Language

- Different categories of contract language and their function
- How to distinguish between the categories
- Why does it matter?

Layout

- How to present sections, subsections, and enumerated clauses
- Adams' enumeration scheme
- Issues of typography

Using Defined Terms

- Two kinds of definitions
- Role of the definition section
- Using an index of defined terms

Ambiguity and Vagueness

- Different kinds of ambiguities & how to avoid them

Select Usages

- Problematic words and phrases
- Clearer alternatives

Drafting as Writing

In this session, Ken will review some general principles of good writing that apply to contract drafting. You will have the chance to re-draft sample provisions and engage in exercises that will reinforce critical concepts.

A thoughtful and rigorous curriculum that will benefit all, whether junior or more experienced.

October 24, 2017
9:00 am – 12:30pm

Advanced Workshop: *The Categories of Contract Language*

Categories of Contract Language

Understanding and mastering the categories of contract language is an essential skill for anyone involved in drafting, interpreting or negotiating contracts. In this session, you will engage in interactive exercises that will involve identifying the best solutions for common contract language drafting problems.

- In-depth analysis on the different categories of contract language
- Understand clear and concise alternatives

Emerging Issues in Categories-of-Contract-Language

- Language of performance or obligation
- "Shall not ... unless" vs. "May ... only if"
- Addressing unreasonable withholding of consent
- Whether to express positively or negatively language of policy subject to a condition
- When does a condition not make sense?
- "May" vs. "Might"
- Language of concurrence

Analysis of Representative Commercial Contracts

Using real-life examples, you will analyze commercial contracts that contain problematic contract language provisions. You will have the chance to redraft these and discuss alternatives. Topics include:

- Dangers of precedents
- How to effectively and efficiently identify problems with pre-existing contract language
- Apparent (and not so apparent) drafting errors
- Best practices when redrafting

Attendees should either have attended Ken's Drafting Clearer Contracts course *or* be familiar with the analysis of categories of contract language contained in Ken's groundbreaking book, *A Manual of Style for Contract Drafting*.

Take advantage of bundled pricing when you register for both in-person offerings.

Register today at:
osgoodepd.ca/contractdrafting



Online Webinar Series

November 16th, 2017
12:00 – 1:00-pm/EST

Session 1: The Front and Back of the Contract

The front and back of a contract sets the framework, structures and defines the contract.

Using sample contract excerpts as examples - this session will focus on what you should include and exclude in these critical sections of a contract. The title, introductory clause, recitals, lead-in, concluding clause, and signature blocks will be explored. Other topics include:

- Confusing and redundant titles and terminology
- When and how to effectively use capital letters
- Appreciating the purpose and use of the front/back sections of a contract
- Implications of unclear terms and definitions
- The defined term – “The Agreement”
- When and how to use a table of contents, and index of defined terms

November 23rd, 2017
12:00 – 1:00-pm/EST

Session 2: The Body of the Contract – Categories of Contract Language

Awkward verb use makes contracts harder to read and can result in confusion. In this session, you'll learn how to eliminate confusion by understanding categories of contract language. The body of the contract contains the provisions that the parties are agreeing to, and each clause or sentence can serve a number of purposes. Each purpose requires its own category of language, and each category raises its own issues of usage.

This session will further demonstrate how any given contract provision falls within one of several categories of contract language, each with its own recommended verb use.

Specific topics include:

- Language of performance
- Language of obligation
- Language of discretion
- Language of prohibition
- Language of policy
- Expressing conditions
- Language of declaration
- The use of ‘shall’ and ‘may’ in restrictive relative clauses

November 30th, 2017
12:00 – 1:00 pm/EST

Session 3: Ambiguity, Vagueness & Defined Terms in Contract Language

Uncertainty, or lengthy, complicated and confusing terminology can result in misunderstandings and contracts that don't clearly express the intent of the parties.

In this session, Ken will address the efficient use of defined terms and explore the different forms of ambiguity along with how to avoid them when drafting. Specific topics include:

- Understanding the two kinds of definitions
- Role of the definition section
- Proper use of defined terms to ensure consistency and clarity
- How vagueness can be an essential drafting tool
- Ambiguity of the part vs. the whole
- Strategic use of modifiers, including ‘that’ and ‘which’

December 7th, 2017
12:00 – 1:00 pm/EST

Session 4: Selected Usages – Problematic Words and Phrases in Contracts

Many contracts are drafted using common words, phrases and provisions that are problematic and misinterpreted. During this session, Ken will take a deep dive

and discuss these problematic words and phrases, the misconceptions surrounding them, and provide options that are more concise and less prone to confusion.

Specific contentious and hot button provisions, words and phrases addressed, include:

- Efforts provisions – what's the difference between ‘best’ vs. ‘reasonable’?
- ‘Indemnification’ vs. ‘hold harmless’
- ‘Represents and warrants’
- ‘Notwithstanding’ vs. ‘subject to’
- ‘Including but not limited to’; ‘including without limitation’
- Challenges with select phrases: ‘time is of the essence’; ‘material adverse change’; ‘best efforts’
- Clarity in damages provisions

December 14th, 2017
12:00 – 1:00 pm/EST

Session 5: Drafting as Writing – Layout and Typography

Contract prose and layout may be limited and stylized, but clear and efficient drafting requires a decent grasp of general principles of good writing.

In this session Ken explores the principles of clear writing that apply to contract drafting, as well as issues relating to document design. Specific concepts discussed:

- Drafting as writing: top tips
- What language to avoid: gender-specific language; lawyerisms; wordy phrases
- Grammar fundamentals: placement of subject, verb and object
- Subdividing contract text
- Redundancy and elaboration

The last portion of the session will demonstrate the cumulative effect of the approaches to contract language explored during the series. Extracts from sample contracts, both before and after being redrafted consistent with Ken's recommendations, will be explored.

Our participants say it best:

“I thought the content was excellent. Very good examples taken from common contracts. Ken was able to convince me of the problems with a lot of commonly used contract language.”

“Very good intellectual engagement of the issues. Materials were well prepared and useful.”

“I wish I had taken this course early on in my career. Excellent program for practitioners of all levels.”

“Thought provoking as always. Excellent course. Very practical and useful.”

Registration Details

Fee per Delegate

Program only: \$895 + HST
Workshop only: \$395 + HST
Program + Workshop: \$1195 + HST

Online webinars \$199 + HST/session
OR \$895 for the series (bundled pricing)

Fees include attendance, program materials, continental breakfast, and refreshments. Group discounts are available. Visit www.osgoodepd.ca/group-discounts for details. Please inquire about financial assistance.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days' notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC. Eligible CPD Hours – LSUC (ON):



- Drafting Clearer Contracts: 6.0 CPD Hours (2h 30m Substantive; 3h 30m Professionalism)



- Advanced Workshop: 3.0 CPD Hours (1h 30m substantive; 1h 30m Professionalism)

- Webinar Series: 1.0 Professionalism/session OR 5.0 Professionalism (Series)

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca



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Register today at:

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