Instructor
Doris A. Kemp
Bobby Chain Technology Bldg. Room 250-A
Office Phone: (601) 266-5673
Email: Doris.Kemp@usm.edu

Office Hours
MW 1:00 -3:00 pm; TTh 9:00 -11:00 am; 1:30 – 2:30 pm

Class Meets (On-Campus Section)
MW 9:45 – 11:15 am in TEC 252

Drop Date
- Thursday, September 6, 2018, is the last day to drop full-semester classes w/o instructor permission & academic or financial penalty with a grade of W & receive 100% tuition credit
- The last day a student may withdraw and receive a grade of “W” is Thursday, November 1, 2018. After this date you will receive a letter grade.
- See Academic Calendar: https://www.usm.edu/registrar/fall-2018-full-term-academic-calendar-0 for other important dates for the semester

Prerequisites
ENG 101 & ENG 102. At least senior standing (90 hours completed)

Credit Hours
3 credit hours.

Course Description
Analysis of construction law. Legal problems, the bidding process, contract performance, the contract; writing intensive course (WI).

Course Overview
The intersection of law and the construction industry. The topical content of this course pertains to the principles of law related to design and construction of the built environment. Construction Law is a very narrow/specialized sliver of the legal domain and some other aspects of the law must be covered to put it into context (such as contract law). These principles of law help to define construction risk, which eventually becomes the basis of corporate policies and procedures.

Incidental to the topical class content, the course is about reading, analyzing, then writing (about your critical thinking conclusions). Some of you most likely will not have experience reading material of this nature, comprehending, then thinking critically about such concepts. Writing
does not come naturally to most people, it takes practice and an appropriate attitude. It is however, the most desired competency of employers along with verbal communication. Additionally, this course is designated as Writing Intensive (WI) by the School of Construction + Design and the University. This requires that you author a document of at least 5,000 words which is organized coherently, is grammatically correct, and cited.

Plan to spend 6-9 hours a week in order to be successful in this course. You need to ensure that you read your textbook thoroughly in order to comprehend key material. You will also be required to read cases located in LexisNexis provided by the university library.

Course Learning Outcome(s)

Course Learning Outcomes
The following Course Learning Outcomes (CLOs) are applicable to this course: As a result of this course, students should be able to...

1. Comprehend basic axioms of construction contract law;
2. Summarize the form and substance of written construction contracts;
3. Explain typical contractual payment, pricing and performance processes;
4. Define the rules associated with concealed or unknown conditions;
5. Summarize contractual change processes;
6. Understand liabilities arising from time as a performance obligation;
7. Interpret contract documents;
8. Compare and contrast suspension and termination processes;
9. Express assurance principles such as warranty, inspection and testing;
10. Describe claims and dispute resolution processes;
11. Comprehend public bid processes and bid irregularities;
12. Identify key subcontracting issues;
13. Recognize ethical issues;
14. Associate common insurance products with specific types of liabilities; and
15. Classify surety bonds and transactions by their functions.

Student Learning Outcomes
American Council of Construction Education (ACCE) Student Learning Outcomes (SLOs):

#1. Create written communications appropriate to the construction discipline.
#6. Analyze professional decisions based on ethical principles.
#17. Understand the legal implications of contract, common, and regulatory law to manage construction project.

Assessment Methods

An appropriate Assessment Method (AM) gauges student achievement of each SLO. The AMs selected for this course are:

1. Individual student performance on pre-class, online, chapter term definitions;
2. Individual student performance on pre-class, online, multiple-choice, formative quizzes;
3. Individual student performance on development of the analysis of court case submitted by online FIRACs

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4. Individual student performance at the conclusion of the course through researching, developing, and online submission of a 5,000 word position paper on a construction related topic
5. Individual student performance at the conclusion of the course through an in-class, multiple-choice/short essay, comprehensive final exam.

**Topical Content**

The topical content of this course is related to Course Learning Outcomes (CLOs), Student Learning Outcomes (SLOs), and Assessment Methods (AMs), as follows:

<table>
<thead>
<tr>
<th>Section 1- Performing the Contract</th>
<th>CLOs</th>
<th>SLOs</th>
<th>AMs***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Meaning and reason for contract</td>
<td>1-3</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>Sources of law</td>
<td>1</td>
<td>17</td>
<td>1, 2</td>
</tr>
<tr>
<td>Consideration</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Remedies</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Agreements to agree</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implied warranty</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good faith and fair dealing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The fully integrated agreement</td>
<td>2</td>
<td>17</td>
<td>1, 2</td>
</tr>
<tr>
<td>Roles/responsibilities (owner, contractor, designer, subs)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Payment processes</td>
<td>3</td>
<td>17</td>
<td>1, 2</td>
</tr>
<tr>
<td>Pricing methods</td>
<td></td>
<td></td>
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<tr>
<td>Performance (contractual)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 2 – Reforming the Contract</th>
<th>CLOs</th>
<th>SLOs</th>
<th>AMs***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Historical background (concealed or unknown conditions)</td>
<td>4</td>
<td>17</td>
<td>1, 2</td>
</tr>
<tr>
<td>Modern rules (concealed or unknown conditions)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>The changes clause</td>
<td>5</td>
<td>17</td>
<td>1, 2</td>
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<tr>
<td>Contractual processes (changes)</td>
<td></td>
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<tr>
<td>Preexisting duty rule (and the uniform commercial code)</td>
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<tr>
<td>Performance (time as a performance obligation)</td>
<td>6</td>
<td>17</td>
<td>1, 2</td>
</tr>
<tr>
<td>Liabilities (delay, acceleration, no damages for delay)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Interpretive evidence (contract documents)</td>
<td>7</td>
<td>17</td>
<td>1, 2</td>
</tr>
<tr>
<td>Harmony (contract documents)</td>
<td></td>
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<td>Conflicting information (contract documents)</td>
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<tr>
<td>Misleading information (contract documents)</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 3 – Transforming the Contract</th>
<th>CLOs</th>
<th>SLOs</th>
<th>AMs***</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conditions (legal conditions)</td>
<td>8</td>
<td>17</td>
<td>1, 2</td>
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<tr>
<td>Breached promises</td>
<td></td>
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<td></td>
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<tr>
<td>Suspension and termination for cause</td>
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<tr>
<td>Suspension or termination for convenience</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Delay and its implication on material breach</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Consequential damages</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Warranty</td>
<td>9</td>
<td>17</td>
<td>1, 2</td>
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<tr>
<td>Inspection</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Correction of work</td>
<td></td>
<td></td>
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</tr>
</tbody>
</table>
Course Communication

The primary mode of communication will be via Canvas messages, announcements or e-mail. **Note:** You should check Canvas daily to ensure you do not miss important information related to the course. The instructor will check email daily and you should receive a response within 48 hours (M-F) of successfully sending the e-mail. In the event that you experience technical problems or the instructor is unable to respond due to extenuating circumstances, you are encouraged to contact the School of Construction + Design main office staff for assistance.

The course homepage will contain an area which is titled “ANNOUNCEMENTS”. You should check this daily. It is here that the instructor will inform the students in the class of any changes, information, or instructions which impact the course content or students enrolled.

Required Text(s) and Readings


Supplementary References

https://www.nolo.com/dictionary
Free dictionary of law terms and legal definitions

LexisNexis Academic- access and available through USM’s library; this is where you will locate cases to read for completing the FIRAC assignments

Second edition of Black’s Law dictionary available for a free download and is in the public domain.

**Technology Requirements**

A broadband internet connection is required to view videos and to successfully participate in the course in general. Please do not attempt with dial-up or low internet connection bandwidths. Access to some course material with mobile devices is possible with the Canvas App, but a personal computer is required to complete the course.

You are responsible for having access to a computer that can accommodate the course delivery and requirements. Please do not attempt to navigate the course solely with a tablet or smartphone (although apps for these and push notifications are encouraged). Please do not rely or depend upon the instructor for technical support. Canvas technical support can be found at this link: https://www.usm.edu/canvas

**Class Procedures and Requirements**

See *Class Schedule* at the end of this document for detailed information regarding course requirements.

Course Modules are in Canvas and include the following:

- **Lecture Materials**- Power Points, handouts, and other reference materials used during class lecture are found here
- **In Class Lecture Video**- the on-campus class lectures are captured and uploaded here
- **Assessments**- all assignments (chapter definition of terms, chapter quizzes, FIRACs, position paper, and comprehensive final exam

All student submitted work must follow the following file naming format:

*Last name_*First initial_*ID#_*AEC 478* Assignment Name

Example: Kemp_D_123456_AEC 478_FIRAC#1

**Class Participation Policy**

Students are expected to review all content related to the course and access the online course in Canvas at least several times a week (both on-campus & online section students). On-campus students are expected to attend class and attendance will be verified at the beginning of class. **The on-campus lecture is recorded so the door to the classroom will be closed at 9:50 am (5 minutes after the official start of class) and students will not be allowed to enter after that time.** This will prevent the class being disrupted by a student entering late. Please plan to be early or at least be on time.

The course content in Canvas reinforces and supplements the content in your textbook and will assist you in learning the course materials. Attendance in class (face-to-face or in Canvas for online students) is important is aiding students in being successful in the course.
## Evaluation Criteria

<table>
<thead>
<tr>
<th>Assessment #</th>
<th>Item</th>
<th>Point Value</th>
<th>Percent</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>15 Definition of Chapter Related Terms (complete Pre-Class meeting (by 9:45 am) on day where chapter covered)</td>
<td>150 pts total (10 pts. each)</td>
<td>15.0%</td>
<td>Related to material covered in textbook chapters; See Individual Course Module under Assessments for required terms to define</td>
</tr>
<tr>
<td>2</td>
<td>15 Chapter Quizzes (complete Pre-Class meeting (by 9:45 am) on day where chapter covered)</td>
<td>150 pts total (1 pt. each question)</td>
<td>15.0%</td>
<td>See Individual Course Module under Assessments for required quizzes</td>
</tr>
<tr>
<td>3</td>
<td>4 FIRACs</td>
<td>400 pts total (100 pts. each FIRAC)</td>
<td>40.0%</td>
<td>See guidelines for FIRACs</td>
</tr>
<tr>
<td>4</td>
<td>1 Position Paper</td>
<td>200 pts</td>
<td>20.0%</td>
<td>See guidelines for Paper</td>
</tr>
<tr>
<td>5</td>
<td>Proctored Comprehensive Final Exam</td>
<td>100 pts</td>
<td>10.0%</td>
<td>Covers all content in course (Chpts. 1-15)</td>
</tr>
</tbody>
</table>

**NOTE:** All grades are based on a possible 1000 points. You earn a total of 820 points = B.

### Grading Scale (based on total points earned):

<table>
<thead>
<tr>
<th>Points Earned</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>900-1000</td>
<td>A</td>
</tr>
<tr>
<td>800-899</td>
<td>B</td>
</tr>
<tr>
<td>700-799</td>
<td>C</td>
</tr>
<tr>
<td>600-699</td>
<td>D</td>
</tr>
<tr>
<td>0-599</td>
<td>F</td>
</tr>
</tbody>
</table>

### Late Assignments or Projects

All assignments are due at the time and date stated on the schedule included in the syllabus. When an assignment or exam is missed, the student is responsible for providing an explanation to faculty. **No late work will be considered for submission for credit unless the instructor receives documentation from the university’s Office of Student Ombudsman Services.** If you have extenuating circumstances that prevent you from meeting an assessment (assignment, quiz, exam…) deadline you need to contact this office to have absences authenticated. [https://www.usm.edu/student-affairs/office-student-ombudsman-services](https://www.usm.edu/student-affairs/office-student-ombudsman-services)

The form requesting the authentication of documentation must be submitted within 14 days of the missed assessment deadline in order to be considered. “By submitting this form, the student is petitioning to have this office authenticate the documentation provided. The student and their instructor(s) will receive a notice from our office advising whether or not the documentation submitted is authentic. This notice does not “excuse” the absence, nor does it guarantee that the student will be permitted to make up tests or other missed assignments. The absence notice simply documents that the student’s illness or other circumstances indicate that the student is/was unable to

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participate in class for the designated period of time. At their discretion, the instructor will make the final decision regarding the Notice of Absence.”

Proctored Exams
The Final Exam required in the course will be taken online. The exam must be proctored. The instructor and the students enrolled in the course both have responsibilities to ensure that this process is successful. Be sure to read all instructions about your responsibilities related to fees, forms, and follow-up. The exam is password protected and only your verified proctor will be issued the password. The window to take the exam aligns with the University official schedule for taking the final exam for the course. The Final Exam must be completed within the hours of 10:15 am – 12:15 pm on Monday, December 3, 2018. NO EXCEPTIONS WILL BE MADE!

The instructor will proctor the exam on the specific day and time the on-campus students are scheduled to take the exam. If you cannot attend then, you MUST complete an application to proctor and secure someone else to proctor your exam. https://online-learning.usm.edu/proctoring/

Academic Honesty
All students at the University of Southern Mississippi are expected to demonstrate the highest levels of academic integrity in all that they do. Forms of academic dishonesty include (but are not limited to):

- Cheating (including copying from others’ work)
- Plagiarism (representing another person’s words or ideas as your own; failure to properly cite the source of your information, argument, or concepts)
- Falsification of documents
- Disclosure of test or other assignment content to another student
- Submission of the same paper or other assignment to more than one class without the explicit approval of all faculty members involved
- Unauthorized academic collaboration with others
- Conspiracy to engage in academic misconduct

Engaging in any of these behaviors or supporting others who do so will result in academic penalties and/or other sanctions. If a faculty member determines that a student has violated our Academic Integrity Policy, sanctions ranging from resubmission of work to course failure may occur, including the possibility of receiving a grade of “XF” for the course, which will be on the student’s transcript with the notation “Failure due to academic misconduct.” For more details, please see the University’s Academic Integrity Policy: https://www.usm.edu/institutional-policies/policy-acaf-pro-012 Note that repeated acts of academic misconduct will lead to expulsion from the University.

Academic Support Resources
Please see our Student Success Website: http://www.usm.edu/success for information on where you can find tutoring and other academic assistance, as well as the location of key resources on campus.

If a student believes that they have a disability which is covered by the Americans with Disabilities Act (ADA) and makes them eligible to receive classroom or housing accommodations, they should contact the Office for Disability Accommodations (ODA) for information regarding the registration process. Disabilities covered by the ADA may include but are not limited to ADHD, learning
disabilities, psychiatric disabilities, physical disabilities, chronic health disorders, temporary illnesses or injuries and pregnancies. Students should contact ODA if they are not certain whether their documented medical condition qualifies for ODA services. Students are only required to disclose their disability to the Office for Disability Accommodations. All information submitted to ODA by the student is held with strict confidentiality.

**Contact information:**
The University of Southern Mississippi
Office for Disability Accommodations
118 College Drive # 8586
Hattiesburg, MS 39406-0001
Voice Telephone: 601.266.5024 or 228.214.3302 Fax: 601.266.6035
Individuals with hearing impairments should contact ODA using the Mississippi Relay Service at 1.800.582.2233 (TTY) or email ODA at oda@usm.edu.

**Mental Well-Being Statement**
USM recognizes that students sometimes experience challenges that make learning difficult. If you find that life stressors such as anxiety, depression, relationship problems, difficulty concentrating, alcohol/drug problems, or other stressful experiences are interfering with your academic or personal success, consider contacting Student Counseling Services on campus at 601-266-4829. More information is also available at [https://www.usm.edu/student-counseling-services](https://www.usm.edu/student-counseling-services). All students are eligible for free, confidential individual or group counseling services. In the event of emergency, please call 911 or contact the counselor on call at 601-606-HELP (4357).

**Nondiscrimination Statement:**
The University of Southern Mississippi offers to all persons equal access to educational, programmatic and employment opportunities without regard to age, sex, sexual orientation, disability, pregnancy, gender identity, genetic information, religion, race, color, national origin, and/or veteran status pursuant to applicable state and federal law.

**Confidentiality and Mandatory Reporting**
As an instructor, one of my responsibilities is to help create and maintain a safe learning environment on our campus. I also have a mandatory reporting responsibility related to my role as a faculty member. I am required to share information regarding sexual misconduct or information about a crime that may have occurred on USM’s campus with certain University officials responsible for the investigation and remediation of sexual misconduct. The information will remain private and will only be shared with those officials necessary to resolve the matter. If you would like to speak in confidence, resources available to students include Confidential Advisors with the Shafer Center for Crisis Intervention, the Counseling Center, Student Health Services, and Clergy. More information on these resources and University Policies is available at [https://www.usm.edu/sexual-misconduct](https://www.usm.edu/sexual-misconduct).
## Class Schedule*

*Schedule may be revised if necessary. Students will be notified if this is the case.

<table>
<thead>
<tr>
<th>Date</th>
<th>Module</th>
<th>Textbook</th>
<th>Due</th>
</tr>
</thead>
<tbody>
<tr>
<td>W 29-Aug</td>
<td>Intro to Course &amp; Syllabus</td>
<td></td>
<td>Introduce Yourself to Class—Discussion in Canvas Read syllabus</td>
</tr>
<tr>
<td>M 3-Sep</td>
<td>Labor Day Holiday (9/3)</td>
<td></td>
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<tr>
<td></td>
<td><strong>Part 1 - Construction Contracts</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>W 5-Sep</td>
<td>Axioms of Construction Contract Law</td>
<td>Chapter 1</td>
<td>Quiz 1 and Chpt. 1 Terms</td>
</tr>
<tr>
<td>M 10-Sep</td>
<td>Written Contract Form &amp; Substance</td>
<td>Chapter 2</td>
<td>Quiz 2 and Chpt. 2 Terms</td>
</tr>
<tr>
<td>W 12-Sep</td>
<td>Payments &amp; Performance</td>
<td>Chapter 3</td>
<td>Quiz 3 and Chpt. 3 Terms</td>
</tr>
<tr>
<td>M 17-Sep</td>
<td><strong>FIRAC Information</strong></td>
<td></td>
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</tr>
<tr>
<td>W 19-Sep</td>
<td>Concealed or Unknown Conditions</td>
<td>Chapter 4</td>
<td>Quiz 4 and Chpt. 4 Terms</td>
</tr>
<tr>
<td>M 24-Sep</td>
<td>Changes</td>
<td>Chapter 5</td>
<td>Quiz 5 and Chpt. 5 Terms</td>
</tr>
<tr>
<td>W 26-Sep</td>
<td>Time</td>
<td>Chapter 6</td>
<td>Quiz 6 and Chpt. 6 Terms</td>
</tr>
<tr>
<td>M 1-Oct</td>
<td>Open</td>
<td></td>
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<tr>
<td>W 3-Oct</td>
<td>Interpreting the Contract Documents</td>
<td>Chapter 7</td>
<td>Quiz 7 and Chpt. 7 Terms; <strong>FIRAC #1</strong></td>
</tr>
<tr>
<td>M 8-Oct</td>
<td>Suspension and Termination</td>
<td>Chapter 8</td>
<td>Quiz 8 and Chpt. 8 Terms</td>
</tr>
<tr>
<td>W 10-Oct</td>
<td>Assurance</td>
<td>Chapter 9</td>
<td>Quiz 9 and Chpt. 9 Terms</td>
</tr>
<tr>
<td>Th-F 11-12-Oct</td>
<td>Fall Break for Students</td>
<td></td>
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</tr>
<tr>
<td>M 15-Oct</td>
<td>Claims &amp; Dispute Resolution</td>
<td>Chapter 10</td>
<td>Quiz 10 and Chpt. 10 Terms</td>
</tr>
<tr>
<td>W 17-Oct</td>
<td><strong>Position Paper Information</strong></td>
<td><strong>FIRAC #2</strong></td>
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<tr>
<td></td>
<td><strong>Part 2 - Construction Risks</strong></td>
<td></td>
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<tr>
<td>M 22-Oct</td>
<td>Bidding on Public Projects</td>
<td>Chapter 11</td>
<td>Quiz 11 and Chpt. 11 Terms</td>
</tr>
<tr>
<td>W 24-Oct</td>
<td>Subcontractor Protections &amp; Vulnerabilities</td>
<td>Chapter 12</td>
<td>Quiz 12 and Chpt. 12 Terms</td>
</tr>
<tr>
<td>M 29-Oct</td>
<td>Position Paper Topics Discussed</td>
<td></td>
<td><strong>Position Paper Topic for approval</strong></td>
</tr>
<tr>
<td>W 31-Oct</td>
<td>Ethical Considerations for Constructors</td>
<td>Chapter 13</td>
<td>Quiz 13 and Chpt. 13 Terms; <strong>FIRAC #3</strong></td>
</tr>
<tr>
<td>M 5-Nov</td>
<td>Construction Insurance</td>
<td>Chapter 14</td>
<td>Quiz 14 and Chpt. 14 Terms</td>
</tr>
<tr>
<td>W 7-Nov</td>
<td>Open</td>
<td></td>
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<tr>
<td>M 12-Nov</td>
<td>Open</td>
<td></td>
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<tr>
<td>W 14-Nov</td>
<td>Surety Bonds</td>
<td>Chapter 15</td>
<td>Quiz 15 and Chpt. 15 Terms; <strong>FIRAC #4</strong></td>
</tr>
<tr>
<td>M 19-Nov</td>
<td>Open</td>
<td></td>
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<tr>
<td>W 21-Nov</td>
<td>Thanksgiving Holiday (11/21-11/23)</td>
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<tr>
<td>M 26-Nov</td>
<td>Open</td>
<td></td>
<td><strong>Position Paper</strong></td>
</tr>
<tr>
<td>W 28-Nov</td>
<td>Open</td>
<td></td>
<td></td>
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<tr>
<td>Mon 3-Dec</td>
<td>**Comprehensive Final Exam **</td>
<td></td>
<td>On-Campus: 10:15am-12:15pm on 12/3, instructor will proctor exam in classroom</td>
</tr>
</tbody>
</table>

**The Final Exam must be proctored- must secure verified proctor well in advance to date to take the exam. Open- no new content covered-possible guest speaker or used to cover content that runs over original scheduled date**

**Industry Partner:** W. Edward Hatten, Jr., Attorney at Law, Dukes, Dukes, Keating & Faneca, P.A.

**Academic Partner:** Gregory F. Starzyk, JD, CPC, Associate Professor, California Polytechnic State University