

# CONTRACT LAW AND ITS APPLICATION

EIGHTH EDITION

DANIEL J. BUSSEL  
ARTHUR I. ROSETT

FOUNDATION PRESS

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CASES AND MATERIALS

# CONTRACT LAW AND ITS APPLICATION

EIGHTH EDITION

*by*

DANIEL J. BUSSEL

Professor of Law

University of California, Los Angeles

ARTHUR I. ROSETT

Late Professor of Law Emeritus

University of California, Los Angeles

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## PREFACE TO THE EIGHTH EDITION

The doctrinal structure of American contract law has remained remarkably stable in the face of far-reaching changes in technology, the mass scale and global reach of modern commerce, and the severe economic shocks of the first decade of the 21st Century. Doctrinally and structurally this EIGHTH EDITION of CONTRACT LAW AND ITS APPLICATION is very much in the mold of its predecessor, but with a fresher spirit as some of the older cases give way to newer cases and notes that show the doctrine and the process of legal interpretation and analysis playing out in factual circumstances that reflect the complicated, interrelated, technology-laden, diverse and evolving society we find ourselves in.

One consequence of the resistance of traditional contract doctrine to change has been the increasing relevance of countervailing forces: the explosion in positive law regulating contractual and commercial relationships, of course, but more recently also, renewed interest in, developments in, and judicial and academic concern about, restitution and arbitration as alternatives to traditional contract remedies. Integrating the new THIRD RESTATEMENT OF RESTITUTION and the developing caselaw relying on unconscionability doctrine as a mechanism to regulate arbitration are the most significant doctrinal innovations reflected in this EIGHTH EDITION.

It is my sad duty to record in this PREFACE the passing of Professor Arthur I. Rosett on January 4, 2011. Arthur was my friend, mentor, colleague and co-author for more than two decades. The breadth of Arthur's scholarly interests was astounding. He moved with ease back and forth from contracts and commercial law, to arbitration, to Jewish law, to international and comparative law. To all this Arthur brought his intense intellectual curiosity, his *joie d'être*, his humanism, and his wisdom. He loved learning about diverse intellectual, legal and social traditions, while always remaining skeptical of each of them and fascinated by the commonalities and connections among them. These personal and intellectual characteristics of Arthur permeated earlier editions of this book and remain reflected in the current edition. It incorporates the traditional canon of contract law but restates it in light of, and grounded in, Arthur's rich understanding of human relationships which he presented with humor and open-minded wonder at how and why people structure their commercial and personal relationships and how and when society limits or facilitates their ability to do so. Although the primary responsibility for maintaining this book has become mine, Arthur's love of law and life tempered by his wisdom and clear-eyed, but ultimately optimistic view of the human condition, is its heart.

I am very grateful to Amanda Wolin, UCLA School of Law Class of 2012, for providing excellent research and editing assistance for this EIGHTH

EDITION. Once again, as on so many prior projects my staff assistant, Tal Grietzer, prepared a camera-ready manuscript of these materials through the miracle of modern desk-top publishing. His efforts, skill and care made timely publication possible. A newer member of our faculty support group, Therese Franklin, also played an indispensable role in preparing the manuscript for publication and I am most grateful that she too lent her skill and efforts to this project, and look forward to working with her again in the future. I also owe thanks to my law partners at Klee, Tuchin, Bogdanoff & Stern LLP for their indulgence and support of my academic work, and, of course, to the UCLA School of Law, its administration, its faculty, and the marvelously resourceful and helpful law librarians at the UCLA Hugh & Hazel Darling Law Library.

Los Angeles, California  
March 7, 2011

D.J.B.

*In Memoriam*

*Arthur I. Rosett*

July 5, 1934 – January 4, 2011

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