VISIONS OF CONTRACT THEORY
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RATIONALITY, BARGAINING,
AND INTERPRETATION

by

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To valued colleagues and mentors; scholars and gentlemen all: 
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DDB
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This book is the product of extended research by four scholars working in the area of contract theory. Each scholar wrote in his specialty, and his contribution was built on years of research. The book reviews and critiques some of the major theories of contract law. The theories selected for coverage include law and economics, behavioral decision theory, inequality of bargaining power, law as interpretation (idealism), and critical legal theory. Chapters 2 through 4 examine the use of the themes of rationality and efficiency to rationalize contract law. Chapters 5 and 6 analyze the role of bargaining power in contract law. Chapters 7 and 8 analyze the idealism of Karl N. Llewellyn and Ronald Dworkin, which advances the proposition that law is able to obtain internal integrity through a process of theory building. Chapter 9 explores the major tenets of Critical Legal Studies, Critical Race Theory, and Feminist Legal Theory. As the capstone of the book, Chapter 9 also integrates much of the analysis in the earlier chapters.

The book provides new theoretical insights into more specific areas of interest, such as the problems of rational choice theory, the role of bargaining power, a theory of interpretation, and the use of contextualism as a positive methodology of critical legal theory. In addition, each writer's chapter offers original insight into contract law and pays at least some attention to the concept of promissory estoppel. As a result, the novice in contract theory is provided the basics and the contract scholar is provided additional theoretical exposition. In the end, the book should be viewed as a series of independent essays under the umbrella of contract theory.

Although this work is intended to be a holistic product of scholarly cooperation, it is appropriate that we describe the specific contributions of the coauthors. Professor Robert A. Prentice, in Chapter 2, provides a clear and eloquent review of the major tenets of law and economics and behavioral decision theory. In Chapter 3, he critiques both the rational and behavioral schools of decision making. In Chapter 4, Professor Prentice applies the insights developed in the preceding chapters to the areas of gift promises and
promissory estoppel. Professor Daniel D. Barnhizer’s research on bargaining power is provided in Chapters 5 and 6. In Chapter 5 he analyzes the role of bargaining power in contract law. In Chapter 6 he presents an original proposition entitled “Bargaining Power as Contract Theory.” Professor Larry A. DiMatteo, in Chapter 7, analyzes the idealism of Karl N. Llewellyn and Ronald Dworkin. The contextualism of Llewellyn and the principles-focused, interpretive methodology of Dworkin are based upon the view that law is able to obtain internal integrity through a process of theory building. In Chapter 8, Professor DiMatteo offers a theory of interpretation that blends the dual-track theory of Llewellyn with Dworkinian theory building. Professor Blake D. Morant’s analysis of critical legal theory in Chapter 9 includes a review of the major tenets of Critical Legal Studies, Critical Race Theory, and Feminist Legal Theory. He uses the insights gained from these schools of critical theory to advance a positive methodology based upon contemporary realism and a broadened contextual analysis. His methodology uses contextual factors to guide the decision maker in ferreting out the inequities in the law and in law application that are products of bias, prejudice, inequality of bargaining power, and opportunistic conduct.

**INTENDED AUDIENCE**

The book presents a descriptive analysis of contract theory and offers some novel theoretical insights. It is intended to be a general reference work aimed at scholarly researchers and law students.
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Robert A. Prentice is the Ed & Molly Smith Centennial Professor of Business Law, McCombs School of Business, University of Texas at Austin. He has won many teaching awards, authored several textbooks, and published approximately fifty law review articles on the legal environment of business in such journals as the Duke Law Journal, the Northwestern University Law Review, the Cornell Law Review, the Harvard Journal of Law & Technology, and the American Business Law Journal.

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