

**CONTRACTS:  
CASES AND MATERIALS**



# CONTRACTS: CASES AND MATERIALS

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SEVENTH EDITION

**JOHN EDWARD MURRAY, JR.**  
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# *In Memoriam*

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John Edward Murray, Jr.  
(1932-2015)



# Preface

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The essential purpose of a contracts casebook is to provide a vehicle that will facilitate a clear understanding of contract law for success in the lifetime practice of law. One of the principal benefits of such a book in its seventh edition is the fact that the success level of each section of the book can be and has been measured in each edition. If the experience with a given section has proven highly successful in terms of student reactions and outcomes, the changes in that section will be limited in any subsequent edition. Where the success of a section has been moderate, it becomes a candidate for modification or even replacement. The Seventh Edition has clearly benefitted from this approach.

The Seventh Edition continues the tradition of providing cutting edge coverage of new and developing concepts in contract law. Additional material in this edition was essential to reflect important new dimensions — changes reflecting dire warnings such as those suggesting that even the “chronology of contract-making has become unsettled.” *Schnabel v. Trilegiant Corp.*, 697 F.3d 110, 121 (2d Cir. 2012). Indeed, a new theory currently being pursued in contract law “may be as controversial an idea as exists today in the staid world of contract law.” *Howard v. Ferrellgas Partners, L.P.*, 748 F.3d 975, 982 (10th Cir. 2014). An entire sequences of cases and related material must now be pursued dealing with “terms later” and the “rolling contract” theory.

Still other major developments include the favored status of arbitration as the United States Supreme Court continues to emphasize unqualified support for its all-encompassing presence pursuant to the Federal Arbitration Act. The enforcement of arbitration clauses that include terms allegedly favorable to the party with superior bargaining power continues to present courts with difficult issues, but this dilemma may be seen as part of the perennial challenges surrounding standardized “boilerplate” provisions and their operative effects which have yet to find a solid conceptual footing. There is the attendant concern that the apotheosis of arbitration as an adjudicative process providing no precedent or necessary rationale for its awards constitutes an underlying danger to the social institution of contract.

Beyond these additions to the casebook, the continued development of the contract law of the Uniform Commercial Code must be addressed as well as the more recent contract law of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Simultaneously, the common law of contracts continues its ineluctable journey toward a more effective reaction to the felt needs of society.

All of these developments must be considered in an era of curricular change that may lessen the classroom time available for the teaching of contract law. Thus, a casebook must be effective regardless of the hours available for its perusal in a given law school. As in past editions, this edition includes all of these important dimensions and allows the professor teaching the course to make the necessary selective judgments.

John E. Murray, Jr.  
Pittsburgh, PA  
2015





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