

## CONTENTS

<i>List of Contributors</i>	<i>page ix</i>
<i>Preface</i>	xi
<i>Acknowledgment</i>	xxi

### I. THE CASE FOR STRICT LIABILITY

1. Richard A. Posner, <i>Let Us Never Blame a Contract Breaker</i>	3
2. Robert E. Scott, <i>In (Partial) Defense of Strict Liability in Contract</i>	20
3. Stefan Grundmann, <i>The Fault Principle as the Chameleon of Contract Law: A Market Function Approach</i>	35

### II. THE CASE FOR FAULT

4. George M. Cohen, <i>How Fault Shapes Contract Law</i>	53
5. Eric A. Posner, <i>Fault in Contract Law</i>	69
6. Melvin Aron Eisenberg, <i>The Role of Fault in Contract Law: Unconscionability, Unexpected Circumstances, Interpretation, Mistake, and Nonperformance</i>	82

### III. BETWEEN STRICT LIABILITY AND FAULT

7. Roy Kreitner, <i>Fault at the Contract-Tort Interface</i>	101
8. Richard A. Epstein, <i>The Many Faces of Fault in Contract Law: Or How to Do Economics Right, Without Really Trying</i>	118
9. Martha M. Ertman, <i>The Productive Tension Between Official and Unofficial Stories of Fault in Contract Law</i>	132

## viii • Contents

## IV. WILLFUL BREACH

- |   |     |
|---|-----|
| 10. Richard Craswell, <i>When Is a Willful Breach “Willful”? The Link Between Definitions and Damages</i> | 147 |
| 11. Steve Thel and Peter Siegelman, <i>Willful Breach: An Efficient Screen for Efficient Breach</i>       | 161 |
| 12. Oren Bar-Gill and Omri Ben-Shahar, <i>An Information Theory of Willful Breach</i>                     | 174 |
| 13. Barry E. Adler, <i>Contract Law and the Willfulness Diversion</i>                                     | 190 |

## V. COMPARATIVE FAULT

- |  |     |
|--|-----|
| 14. Ariel Porat, <i>A Comparative Fault Defense in Contract Law</i>                                | 207 |
| 15. Saul Levmore, <i>Stipulated Damages, Superstrict Liability, and Mitigation in Contract Law</i> | 223 |
| 16. Fabrizio Cafaggi, <i>Creditor’s Fault: In Search of a Comparative Frame</i>                    | 237 |

## VI. THE MORALITY OF BREACH

- |  |     |
|--|-----|
| 17. Steven Shavell, <i>Why Breach of Contract May Not Be Immoral Given the Incompleteness of Contracts</i> | 257 |
| 18. Dori Kimel, <i>Fault and Harm in Breach of Contract</i>  | 271 |
| 19. Tess Wilkinson-Ryan, <i>Fault in Contracts: A Psychological Approach</i>                               | 289 |
| <i>Case Index</i>  | 305 |
| <i>Subject Index</i>   | 309 |