

Conference on Law & Morality

William & Mary School of Law

Contract Law

Peter A. Alces

*Rita Anne Rollins Professor of Law
William and Mary School of Law*

A.B., Lafayette College; J.D., University of Illinois

Professor Peter Alces's areas of specialization are contracts, commercial law, jurisprudence, and products liability. He is the author of numerous publications, including *Commercial Contracting*; *The Law of Suretyship and Guaranty*; *Bankruptcy: Cases and Materials*; *Cases, Problems and Materials on Payment Systems*; *The Commercial Law of Intellectual Property*; *Sales, Leases and Bulk Transfers*; *The Law of Fraudulent Transactions*; and *Uniform Commercial Code Transactions Guide*. He is the author of articles in the *Northwestern*, *Michigan*, *Minnesota*, *Illinois*, *North Carolina*, *Fordham*, *California*, *Texas*, and *William and Mary Law Reviews*, and the *Ohio State* and *Georgetown Law Journals*. Professor Alces served as Editor-in-Chief of the *Journal of Bankruptcy Law and Practice* from 1991 to 2005. He is currently a member of the American Law Institute and Association of American Law Schools' Section on Commercial and Related Consumer Law; and Advisor to Restatement (Third) of the Law of Suretyship and Guaranty.

The Impossibility of Contract

Bumble bee-like, Contract flies but it should not. Any metatheory of Contract is, I argue, bound to fail because Contract doctrine does not admit of the type of gross analysis theory requires. If we look to theory to rationalize, to make sense of and help us predict Contract results we must come to terms with doctrine in ways that undermine theory. While commentators have found means and occasion to formulate a theory of Contract to vindicate particular observations and conclusions, such formulations must contort doctrine in order to do so. Once we discover the fit, such as it is, between Contract doctrine and Contract theory we will conclude not that Contract is dead, but that it never has been alive. Contract's flight is an illusion, but an effective one.