

CONTRACTS

Class 4



PAST CONSIDERATION AND MORAL OBLIGATION

- General rule: **Past consideration** is no good because it is inherently not bargained for.
- A "**moral obligation**" to pay has the same problem. It is not a bargained-for promise.



MORAL OBLIGATION – EXCEPTIONS

- However, **past consideration + a moral obligation** can lead to exceptions:
 - A promise to pay a debt **barred by the Statute of Limitations**
 - A promise to pay a debt **that is voidable because of incapacity** or some other excuse
 - A promise to pay a debt **barred because it was discharged in bankruptcy**
- Another exception based on moral obligation is that, under the Restatement of Contracts, promises to give charitable donations are enforceable without consideration.



QUIZ TIME!



ACCORD AND SATISFACTION

- This is where both parties agree to a substitute performance instead of the one originally called for.
- If the new performance is strictly less than the old one, apply the rules of modifications.
- **Executory Accord:** The type of performance is being changed.
 - **Rule:** If the substitute duty is breached, the aggrieved party can sue for **either** the new or the old performance.
- **Novation:** Change in the person who will render performance or to whom performance will be rendered.
 - **Rule:** If the new party breaches, only that party (not the original one who gave the duty over) can be sued for breach of contract.



PROMISSORY ESTOPPEL

- **This is a substitute for consideration!**
- **Rule:**
 - If a person makes a **promise**
 - that he or she should **reasonably expect to induce**
 - **detrimental reliance**
 - and **it does**, in fact **induce such detrimental reliance**,
 - the **promise will be enforceable**
- but only to the extent as is necessary to prevent injustice (to the extent of the reliance).

