

**Chapter 8 – Consideration**

Who gets the engagement ring if the  
engagement is broken...?  
by the man?  
by the woman?

Nov 6-1:52 PM

**DO NOW:**

1. Carol Jackson promises to give her son a car on his twenty-first birthday. Is this a legally enforceable promise? Explain your answer.
2. Wendy George is cited for violating the speeding limit. Her uncle, who lives in another county, sends her an e-mail that states, "I will give you \$500 if you do not violate the speed limit for one year." George agrees and complies. Is the promise binding? Explain your answer.
3. Jeffrey Moldovan is upset with his neighbor, Ignatius Donaldson, and offers Ted Frances \$2,000 to wreck Donaldson's car. Frances complies. May Frances collect \$2,000 through legal means? Explain your answer.

Jun 20-1:59 PM



**Consideration** is the exchange of benefits and detriments by the parties to an agreement.

- **Benefits** are something that a party was not entitled to receive.
- A **detriment** is any loss suffered.
  - May include **forbearance**, not doing something you have the legal right to do.

Nov 6-1:52 PM

*Agreements Without Consideration –  
the following are UNENFORCEABLE*

Nov 6-1:52 PM

Mr Wehmann says, "On July 1st, I promise to pay each of you \$25 if you do not do any drugs, or drink alcohol for the rest of the school year."



### Promise to Obey the Law

- Everyone is obligated to obey the law.
- *I promise to give you \$100 if you do not drink alcohol this weekend.*

Nov 6-1:53 PM

*1. A tenant in an apartment pays the \$900 in rent for November. The water stops working in the apartment. The landlord says, "if you pay me another \$100 extra, I will turn on the water." Does the tenant have to pay the \$100 extra?*

*2. You pay the pizzeria \$2 for a slice of cheese pizza. When receiving the slice you say "can you just throw some pepperoni on there for me"? Will you have to pay more for it?*

### Preexisting Duty

- If you are already under a legal duty to do something, a promise to do that same thing does not mean you get any more consideration.
- If you are to receive something for a certain price, you do not get something more for the same money.



*contractor performs work on a home for \$10,000, then refuses to finish the job unless the homeowner agrees to pay another \$2,000*



Nov 6-1:53 PM



You save me from choking at lunch on a Tuesday.

While you are visiting me in the hospital on Wednesday I say,  
"Thank you for saving my life! When I get out of the hospital I will give  
you a \$1,000 reward.

Do I have to pay you?

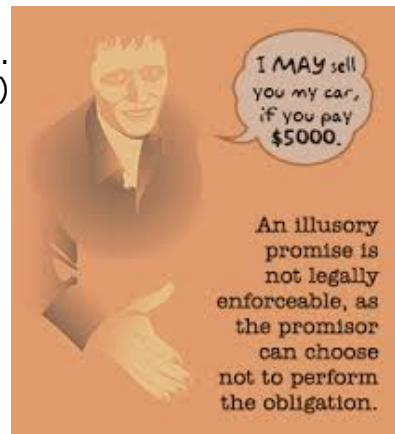
**Past Consideration**

- Giving or exchanging benefits and detriments must take place when the contract is made.

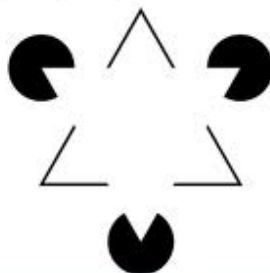
Nov 6-1:56 PM

**Illusory Promise**

- Both parties must be under obligation to do something.
- Some contracts are **illusory** (have a false appearance)
- "I will give you ten dollars when I feel like it"



How many triangles are present in the image below?



Answer: There are no triangles. In reality there are only 3 V shapes and 3 shapes that look like Pac-Men.

Nov 6-1:58 PM

Is a promise to gift a contract?



Judge Judy - Mom-Daughter Loan or Gift? 10min

**Promise to Make a Gift**

- A **gift** is something given freely, for no consideration.
- If someone later refuses to make the gift, there is no breach of contract.

Nov 6-2:01 PM

Who gets the engagement ring if the engagement is broken...?  
by the man?  
by the woman?



PC Part 1  
8 min



PC Part 2  
7 min



Nov 22-10:56 AM



THE BAD DEAL

**Adequacy of Consideration**

- Courts usually don't judge whether the consideration was fair to both parties.
- The courts may find the contract **unconscionable**, so one-sided that is unfairly oppres one party and unreasonably favors the other party.

- o *paying \$700 for night at the 'Motel 6' because it is the last room in town*



Nov 6-2:02 PM

**Is this Unconscionable?**

The Sanchezs alleged that they were pressured when Caitlin, then 12, took the job to voice Dora back in 2007 by Nickelodeon and the teen's agent, Jason Bercy, into signing a 14-page contract after being given only 22 minutes to review the mountain of documents and were not permitted to see an entertainment attorney to go over the deal.



Apparently Caitlin gets only \$5,115 per episode and \$40 a day when she has to travel and promote the highly successful series which rakes in billions.

<http://www.courthousenews.com/2010/10/11/30981.htm>



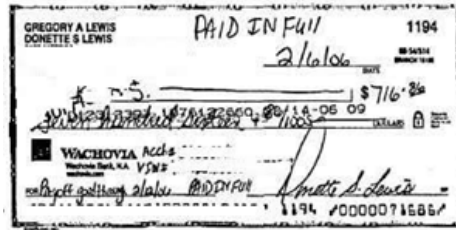
Nov 6-2:03 PM

**Special Applications of Consideration**

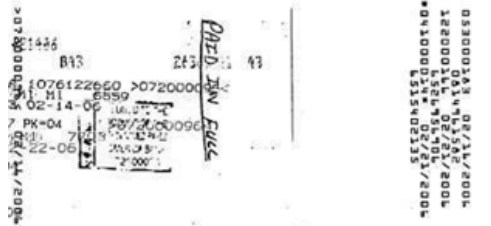
Each promise made as consideration for another promise must create a new obligation.

**Settlement of Disputed Claims**

- If an amount is really in dispute; cashing a check that states "Payment in Full" is treated as the acceptance of the smaller amount... and the balance cannot be recovered.
- If the amount is not in dispute (price is clearly stated and agreed upon); then cashing a check that states "Payment in Full" would not pay off the debt.



430514005494 1010088840268\*1194 /0000071685/



Nov 6-2:05 PM

**Partial Payment of a Debt**

**"Time is Money"**



Do we have to accept your late payment?

- on time payments qualify as consideration and the debt must be reduced.
- if your payment is late, no additional consideration was given and the debt doesn't need to be reduced.

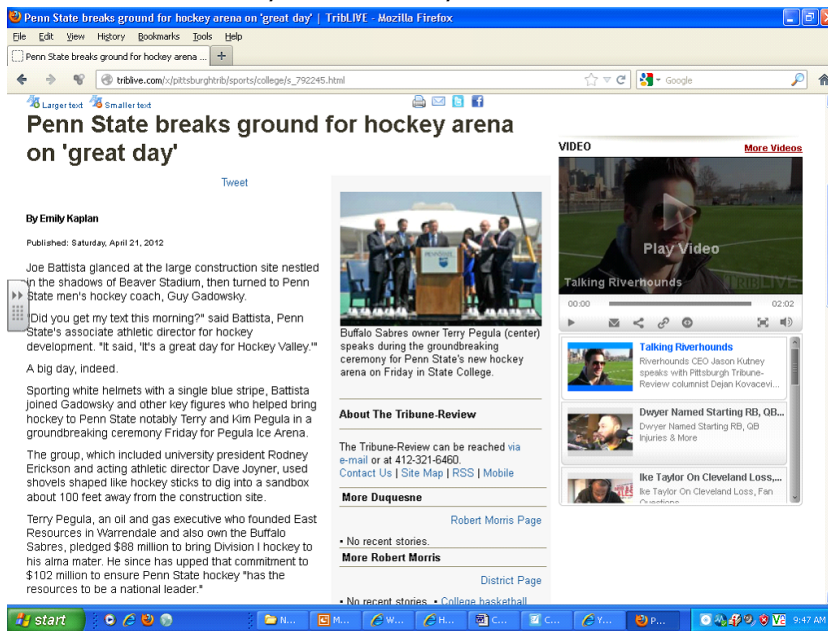
**Extension of Time for Payment**

- If a loan agency/person offers to extend the time allowed to pay, they are not bound by the promise because the debtor offered nothing new.

Nov 6-2:06 PM

### Pledges and Subscriptions

- Usually involve charitable projects and are in the public interest so the courts will try to find a way to enforce them.



Nov 6-2:08 PM

Your uncle tells you, "if you go to college and get 'A's I will give you \$50,000 to pay off your school loans.

You go to school, take out \$50,000 in loans to pay tuition..., and at the end of college your uncle says

"Too bad for you, I changed my mind. You have your degree, pay your own loans off.

Does he have to pay? Why or why not?



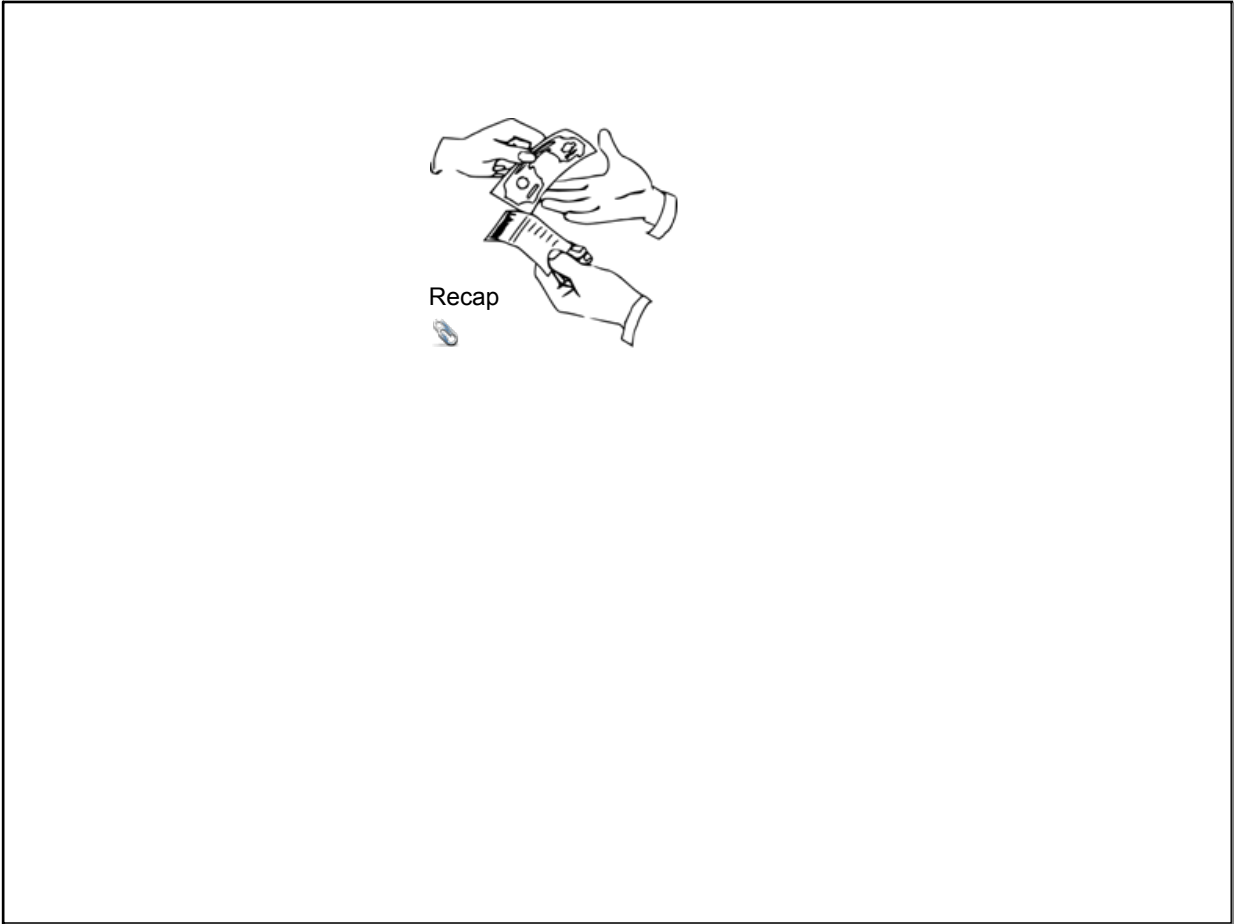
6 min overview

### Promissory Estoppel

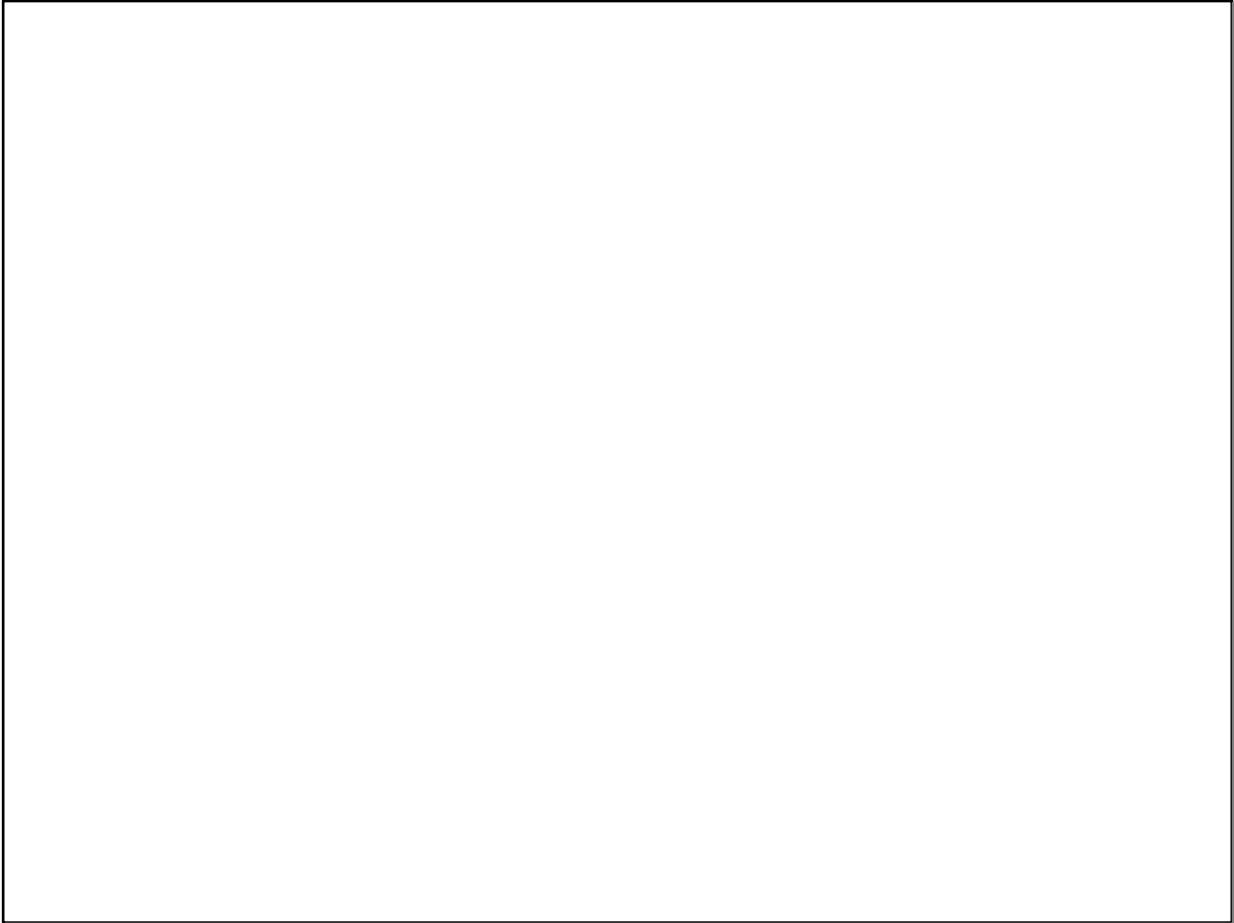
- Under **promissory estoppel** a promise may be enforceable without consideration.
- Promissory means promise
- Estoppel - restraint on a person preventing him/her from contradicting a previous act .
- Needs three conditions, an example....
  1. Promise must be made to do/not do something.
  2. The second party must have relied upon the promise and made a change.
  3. Enforcing the promise is the only way to avoid an injustice to the second party.

Nov 6-2:09 PM





Nov 20-1:59 PM



Nov 22-10:50 AM