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).