9-5-2026 | Lecture 2 - Consideration, Conditional Promises, and Enforceability

What is the 3rd Equitable Maxim?	Where there is equal equity, the law shall prevail.
What defines a voidable contract?	A contract where at least one party has the option of avoiding or enforcing the contractual obligation.
What is the 12th Equitable Maxim?	Equity acts in personam.

What basic elements must be present for a contract to be legally valid?	Agreement, consideration, legal capacity of the parties, legal purpose, and intent.
What standard is used in contract law to evaluate whether parties have achieved mutual assent?	An objective manifestation of intent standard, rather than subjective beliefs or motives.
What is the general judicial rule regarding the adequacy of consideration in a contract?	Courts generally will not inquire into the adequacy of consideration, holding that the value of a thing is what the parties agree it is.
In contract law, what usually serves as the dividing line between enforceable and unenforceable promises?	Consideration.

What is the 8th Equitable Maxim?	Equality is equity.
How is a contract implied-in-fact formed?	By the conduct of the parties rather than express words.
In an agreement to split future earnings, why might the promise seem illusory, and how do courts resolve it?	It seems illusory because zero earnings yield zero duty; courts resolve it by implying an obligation to make reasonable efforts.
What is required for a condition on a promise to count as consideration?	The promisor must bargain for the condition as an inducement for making the promise.

Can third parties provide or receive consideration in a valid contract?	Yes; consideration may be given by or delivered to a third party.
What modern approach do courts use to treat seemingly illusory promises involving prospective profits or contingent outcomes as binding?	Treating the agreement as 'bargaining for a chance'.
What does the 'Peppercorn Theory' state regarding consideration?	Something as nominal or insignificant as a peppercorn or penny can constitute legally sufficient consideration if actually bargained for.
How do courts frequently save contracts containing seemingly illusory promises from invalidation?	By reading implied-in-fact or implied-in-law terms, such as a good-faith requirement or reasonable efforts, into the contract.

Where are most common law contract principles summarized and outlined?	In the Restatement of Law, Second Contracts (R2d).
In the context of at-will employment, how do courts view permitting employment to continue?	As sufficient consideration to support the initial at-will employment terms.
Under what doctrine can an otherwise unenforceable gratuitous promise become binding?	Promissory estoppel (based on detrimental reliance by the promisee).
What is a bilateral contract?	A contract formed by a promise exchanged for another promise.

How does Restatement (Second) of Contracts § 1 define a contract?	A promise or set of promises for the breach of which the law gives a remedy, or the performance of which the law recognizes as a duty.
What defines an 'illusory promise'?	A promise in which the promisor actually incurs no binding obligation or commitment.
Do courts examine whether consideration provides a subjective benefit or detriment to the parties?	No; generally courts do not weigh subjective benefit or detriment under Restatement (Second) §§ 71-79.
What are the two intermediate appellate courts in the Alabama Judicial System?	Court of Civil Appeals and Court of Criminal Appeals.

According to Restatement (Second) of Contracts § 90(2), which type of promise can be binding without proof of consideration or reliance?	Charitable subscriptions.
What is the court's primary objective when evaluating consideration?	To determine whether the item or performance was a true bargained-for inducement rather than a mere sham or formality.
Why is a standard gratuitous promise unenforceable at common law?	Because it lacks consideration (nudum pactum).
What is a contract implied-in-law (quasi-contract)?	An equitable legal fiction created by courts to prevent unjust enrichment, despite no actual agreement existing.

Can a promise of future performance serve as valid consideration if it is conditioned on an uncertain future event?	Yes, provided the occurrence of the condition is not entirely dependent on the arbitrary discretion of the promisor.
According to Restatement (Second) of Contracts § 71(4), must consideration be given directly to the promisor?	No; consideration may be given to the promisor or to a third party.
How does a gratuitous promise differ from a gratuitous transfer in terms of enforceability?	A gratuitous promise requires consideration to enforce, whereas in a gratuitous transfer, actual delivery satisfies performance and completes the transaction.
Why are courts hesitant to invalidate contracts based on the doctrine of illusory promises?	Because contract law holds a fundamental policy bias favoring the enforcement of contracts whenever possible.

Under Restatement (Second) of Contracts § 71(3), what three forms may a contractual performance take?	(a) An act other than a promise, (b) a forbearance, or (c) the creation, modification, or destruction of a legal relation.
Under Restatement (Second) of Contracts § 71(2), when is a performance or return promise 'bargained for'?	When it is sought by the promisor in exchange for his promise and given by the promisee in exchange for that promise.
From which courts do appeals proceed directly to the United States Supreme Court?	State Supreme Courts, U.S. Courts of Appeals (Circuit Courts), and Special Federal Courts.
What is a unilateral contract?	A contract formed by a promise exchanged for an act.

How are express contract terms formed?	By oral or written words.
In a reward contract scenario, what triggers the offeror's duty to pay?	Complete performance of the requested act by an offeree who acted with knowledge of the reward.
What is the 2nd Equitable Maxim?	Equity follows the law.
What defines a void contract?	An agreement that creates no legal obligations from its inception (legally nonexistent).

In contract law, what is a 'promisor'?	The person making a proposal or offer.
What issue was central to the landmark contract case Hawkins v. McGee?	Defining a promise and calculating expectation damages for a guaranteed medical outcome (the 'hairy hand' case).
What is required to make an employee non-compete covenant signed after initial employment enforceable?	A showing of independent consideration beyond mere continued at-will services.
What contract issue was explored in Bayliner Marine Corp. v. Crow?	The creation (or lack thereof) of express warranties under UCC Article 2 regarding performance specs of a boat.

What is the 6th Equitable Maxim?	He who comes into equity must come with clean hands.
What is the 4th Equitable Maxim?	Where the equities are equal, the first in time shall prevail.
What defines an enforceable contract?	A valid contract that can be enforced in court because no legal defenses exist against it.
When does a condition on a promise constitute valid consideration rather than a mere gift condition?	When the promisee's agreement to the condition induces the promise and places a limitation on their freedom of action (legal detriment).

What defines an unenforceable contract?	A contract that legally exists but cannot be enforced due to a specific legal defense.
What is the primary legal rule governing forbearance as consideration?	The forbearance must be bargained for, and the party cannot forbear a right they never legally had.
What is the 1st Equitable Maxim?	Equity will not suffer a wrong without a remedy.
Why can refraining from an illegal act never serve as valid consideration?	Because one cannot relinquish a legal right that one does not possess.

Under Restatement (Second) of Contracts § 77, why does a promise fail as consideration if performance is entirely within the promisor's discretion?	Because the element of commitment is absent, rendering the promise illusory.
What are the three traditional conceptual bases for enforcing promises and quasi-promises?	Consideration, reliance, and restitution.
In state judicial court structures, which court serves as the trial court of general jurisdiction?	Circuit Court.
What is the 5th Equitable Maxim?	He who seeks equity must do equity.

Which international treaty, joined by the United States in 1988, governs international contracts for the sale of goods?	United Nations Convention on Contracts for the International Sale of Goods (CISG).
What is the 9th Equitable Maxim?	Equity looks to the intent rather than the form.
What is the primary characteristic of family or informal agreements regarding legal enforceability?	They are often oral and informal, making proof of intent to form a binding contract difficult without clear objective evidence.
Under Restatement (Second) of Contracts § 74, when can forbearance of an invalid claim constitute valid consideration?	Only if the claim is doubtful due to factual/legal uncertainty, or if the forbearing party genuinely believes the claim may be valid.

What two primary sources of law govern standard contracts in the United States?	State statutory law and common law (judge-made law).
According to Restatement (Second) of Contracts § 71(1), what is required for a performance or return promise to constitute consideration?	It must be bargained for.
What is the 7th Equitable Maxim?	Delay defeats equities.
How does UCC Revised § 1-201(b)(12) define a contract as distinguished from an agreement?	The total legal obligation that results from the parties' agreement as determined by the UCC as supplemented by applicable laws.

In legal terms, what constitutes a 'legal detriment' when establishing consideration?	The relinquishment of a legal right or freedom of action.
How many justices sit on the Supreme Court of Alabama?	9 Justices.
Under what circumstance regarding consideration value will a court review the fairness of a contract exchange?	When the context demonstrates that the consideration appears unreasonably disproportionate or involves significant power differentials or questionable capacity.
Can an express condition restrict a gift without turning the gift into a bargained-for exchange?	Yes; gifts and gratuitous promises can have conditions attached without constituting legal consideration.

In contract law, what is a 'promisee'?	The person accepting a proposal or offer.
What is the legal definition of 'nudum pactum'?	A bare or naked promise that is not legally enforceable due to lack of consideration.
What is the 10th Equitable Maxim?	Equity looks on that as done which ought to be done.
What is the 11th Equitable Maxim?	Equity imputes an intention to fulfill an obligation.

Which main articles of the Uniform Commercial Code (UCC) deal directly with contract law?	Article 1 (General Provisions) and Article 2 (Sales).
What public policy rationale leads courts to disfavor non-compete clauses?	Public policy disfavors restraints on trade and employment.
For a public reward offer to form a contract upon performance, what must be true regarding the performing party's knowledge?	The performing party must know of the reward offer prior to or at the time of doing the act.
What is forbearance in contract law?	Refraining from exercising a legal right or refraining from asserting a legal claim.