

- recognize that they have limited knowledge of the facts
  - Effect of Fault upon mistake (11-5d)
    - The Restatement provides that a mistaken party's fault in not knowing or discovering a fact before making a contract does not prevent him from avoiding the contract unless his fault amounts to a failure to act in good faith and in accordance with reasonable standards of fair dealing
    - This rule doesn't apply to a failure to read a contract
  - Mistake in meaning of terms (11-5e)
    - Situation in which the parties misunderstand their manifestations of mutual assent
    - The restatement is in accord: there's no manifestation of mutual assent in cases in which the parties attach materially different meanings to their manifestations and neither party knows or has reason to know the meaning attached by the other

## Chapter 12: Consideration

- Consideration: inducement to make a promise enforceable
- Consideration ensures that promises are enforced only in cases in which the parties have exchanged something of value in the eye of the law
- Gratuitous (gift) promises: those made without consideration- are not legally enforceable, except under certain circumstances
- Without consideration there's no binding contract
- Consideration: Legal value bargained and given in exchange for a value
  - The cost that a promisee must pay to a promisor to be able to enforce the promisor's promise
- Consideration is present only when parties intend an exchange. The consideration exchanged for the promise may be an act, a forbearance to act, or a promise to do either of these.
- In order for there to be sufficient legal consideration there must be
- Legal sufficiency (12-1) : either a legal benefit to the promisor or a legal detriment to the promisee. Something of value in the eye of the law. THIS MUST BE PRESENT FOR THERE TO BE SUFFICIENT LEGAL CONSIDERATION
  - Legal benefit: a person who is making a promise is receiving something that he or she did not a prior legal right to receive
    - The obtaining by the promisor of that which he had no prior legal right to obtain.
  - Legal detriment: when the promisee does something or promises not to do something that the promisee did not have a prior legal obligation to do or to refrain from doing
    - (1) The doing of (or the undertaking to do) that which the promisee was under no prior legal obligation to do or (2) the refraining from the doing of (or the undertaking to refrain from doing) that which he was previously under no legal obligation to refrain from doing

# Introduction To Business Law Abe Study Manual

**LL Leslie**



## **Introduction To Business Law Abe Study Manual:**

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