



Business/Marketing Virtual Learning

10-12 grade Business Law

April 28, 2020



Lesson: [April 28, 2020]

Objective/Learning Target:
ASSENT

Identify the two key elements of Undue Influence

Let's Get Started

Review This Video:

[What is Undue Influence](#)



Undue Influence and Assent

Undue influence occurs when the dominating party to a confidential relationship exerts irresistible pressure on the dominated party to enter into a contract that benefits the former. A confidential relationship is one in which an inordinate amount of trust and confidence is placed by a dependent party in the dominant party. Examples are attorney and client, parent and a young child, child and an elderly parent, and physician and patient. As a consequence the dominated person then does not exercise free will in accepting the contractual terms. When a contract arises because of undue influence, the contract is voidable by the dominated party.

Often the best evidence of undue influence is found in the terms of the contract. For example, an elderly person, who needs daily care, may sell his or her home to a live-in nurse for half its value. This is strong evidence of lack of free will.

To prevent a claim of undue influence, the stronger party should act with total honesty, fully disclose all important facts, and insist that the weaker party obtain independent counsel before contracting. Persuasion or nagging do not necessarily substantiate undue influence. Whether action rises to the level of undue influence is a difficult question of fact for a jury.

ACTIVITY #17 (support your answers in Journals)

- 1) What are the key elements in undue influence?
- 2) A confidential relationship between parties to the contract must always be shown to prove undue influence.
True or False?
- 3) Which of the following need not be done by the dominating party to prevent a claim of undue influence?
 - a) act with total honesty
 - b) fully disclose all important facts
 - c) insist the weaker party seek independent legal advice before contracting
 - d) submit the contract to a judge for review
- 4) Evelyn was 86 years old and of sound mind. However, she relied upon her nephew Jamal, an accountant, to advise her in business matters. During one of Jamal's visits, he persuaded her to sell him a valuable painting for about 80 percent of its true value. Evelyn agreed and signed a contract. Then she had the painting appraised and learned its true value. She continued with the transaction by accepting payment for the painting. Two months after she died her estate sued for rescission of the contract. Jamal defended by claiming that Evelyn had ratified by accepting payment after learning of the value of the painting. Who prevails, Evelyn's estate or Jamal?