



Business/Marketing Virtual Learning

10-12 grade Business Law

May 1, 2020



Lesson: [May 1, 2020]

Objective/Learning Target:

Define fraud and describe the remedies for it.

Let's Get Started

Review This Video:

[Fraudulent Misrepresentation](#)



Fraud

Fraud is defined as misrepresentation with two additional elements. To prove a case of fraud in court all the elements of misrepresentation, plus the two additional elements, must be shown:

1) The Misrepresentation Must Be Intentional or Reckless

The first additional element that must be shown to establish fraud is that the misrepresentation was intentionally or recklessly made to the victim to induce him or her to enter into the contract, and that, relying on the misrepresentation, the victim did so. Note that some jurisdictions also require the victim to show that she or he had no diligent way to check on the accuracy of the fraudulent statements.

2) The Misrepresentation Must Injure

The second element that must be shown to establish fraud, is proof of injury. If there is an intentional misrepresentation, but no injury, there is no liability for fraud. Suppose you are considering buying an antique motorcycle. The seller says, "It is a 1938 Indian." The seller knows it is a 1937 Indian but intentionally lies, thinking the newer bike is more valuable. If you buy the 1937 model for \$9,000 and it turns out to be worth \$14,000, you haven't suffered an injury. While you could rescind based on misrepresentation, you could not establish fraud.

Remedies for Fraud

If a seller innocently misrepresents a material fact, the buyer may avoid the contract. This remedy also is available for fraud. If a victim can establish fraud, courts also will allow recovery of actual damages and punitive damages.

1) Rescission

As mentioned, contracts entered into as a result of misrepresentation or fraud are voidable by the injured party and can be rescinded. Normally when you rescind, anything you received must be returned. A deceived party who has performed part of the contract may recover what has been paid or given. A deceived party who has done nothing may cancel the contract with no further obligation. If sued on the contract, the deceived party can plead fraud or misrepresentation as a defense.

2) Damages

Damages are available if fraud is proven. Should a defrauded party nonetheless choose to ratify the contract, the defrauded party may seek damages for loss created by the fraud. In *What's Your Verdict?* if Camacho decided to keep the car and ratified the contract, she could recover the difference in value for a car with 15,000 miles on it (the fraudulent misrepresentation) and one with 48,000 miles on it (the truth). Note that, under the UCC, damages are available when there is only an innocent misrepresentation in a sale of goods (tangible personal property).

Cyber Law and Fraud

Fraud is one of the fastest-growing threats facing consumers today. Because many consumer transactions now take place over the Internet, consumers also face the prospect of online fraud. In 1996, the National Consumers League started the Internet Fraud Watch project and the National Fraud Information Center website. Consumers can access the website to get tips on how to avoid scams and fraud 7 days a week, 24 hours a day. Many of the scams involve travel fraud. Travel fraud is growing quickly and involves bargain vacation packages, travel vouchers, and prize trips “for a small fee.” In Operation Trip-Up, the Federal Trade Commission and 12 other law enforcement agencies brought 36 separate actions against travel-related scams. Attorneys general in many states have established special task forces to handle Internet fraud. To curb Internet fraud, education is the key to protection. Before you purchase, check it out!

ACTIVITY #20 support your answers in Journals

- 1) Gianna sold a used car to Cammy for \$11,000. Gianna told her that the car had been driven only 15,000 miles, had never been in an accident, and had the original paint. In fact, Gianna, after sideswiping a bridge abutment had repaired and repainted the car with a far cheaper paint than the original, set back the odometer from 48,000 miles, and stuffed the transmission with sawdust to quiet the rattling sounds emitted by it. Shortly after Cammy purchased the car, the transmission stopped working and a mechanic at a garage near her home pointed out the various ways that she had been deceived by Gianna. What remedies are available to Cammy?
- 2) Paul, a tax protestor, refused to pay income taxes. Although he only had a daughter, he listed so many children as dependents that his employer did not withhold any federal taxes from Paul's paycheck. Each April 15, Paul would appear on local TV holding up a blank 1040 Internal Revenue Service form and state his belief that the income tax was only intended for corporate income. He would then cite Congressional debate at the time of the passage of the Constitutional amendment allowing the income tax in support of his position. Is Paul's behavior illegal, unethical or both?