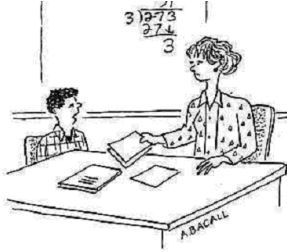


Chapter 7 - Capacity to Contract



"I can't sign that behavior contract unless my attorney reviews it!"

DO NOW:

1. On the day before his 18th birthday, Jamey Luis buys a skateboard at a sporting good store. A sign in the front of the store reads, "Closeout Special! \$285! All Sales Final! No returns!" Luis tries to return the skateboard the next day, arguing that he was a minor when he bought it. Is he entitled to a refund? Explain your answer.
2. Bernadette Fisher, 15 years old, bought a DVD player for \$45. The day after her birthday, she attempts to return it, claiming it does not meet her needs. Must the seller take back the DVD player? Explain your answer.
3. Carl Bregson sues Stan Holland for breach of contract. Holland proves that he was intoxicated when the agreement was executed and did not understand the nature of the agreement. Is the contract enforceable? Explain your answer.

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Capacity is the legal ability to enter a contract.

Ask yourself:

Can I return my broken iPhone to Best Buy?



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Voidable Contracts

Contracts by minors are voidable by the minor.



Minors may **disaffirm** or avoid their contracts if they so choose by showing by statement or act an intent not to live up to the contract.

- Even if the item is damaged or destroyed.
- If a minor still has the merchandise, it must be returned when the contract is disaffirmed.

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If a minor claims to be over the age of majority, then he or she has committed **fraud** and may be sued by the other party.

The entire contract is void; the minor cannot void only part of it.

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What happens when minors enter into a contract with one another?

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When two minors enter into a contract with each other, either/both of them have the right to disaffirm the contract.




Special Statutes by States - In NY

- For car and life insurance.
- To conduct business.
- Married minors - you can be married in NY at 16.

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Ratification of Minors' Contracts



- o After reaching the age of majority, a person can **ratify**, or approve, contracts made during minority.
- o Ratification ends the rights the person had while still a minor.
- o May be made orally, in writing, or by one's actions (making payments, using the item).

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The exception!!! Contracts for Necessaries

You crash on your skateboard and badly sprain your ankle. You go to the emergency room for treatment. You say "thanks, I am a minor, I will not pay the bill". Can you avoid paying the bill?

You go to McDonalds and buy a meal. You eat some of it and return to the counter and say "I am a minor, I want my money back because you cannot enter into a contract with a minor." Can you get your money back?

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Contracts for Necessaries


- o Food, clothing, shelter, and medical care.
- o If a minor has paid more than the fair value for the item, he or she is entitled to the difference.
- o The contract is valid if the price was fair.

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ALSO Lacking Capacity to Enter Contracts


Mentally Impaired Persons

- Unable to make sound judgments
- Contracts are voidable



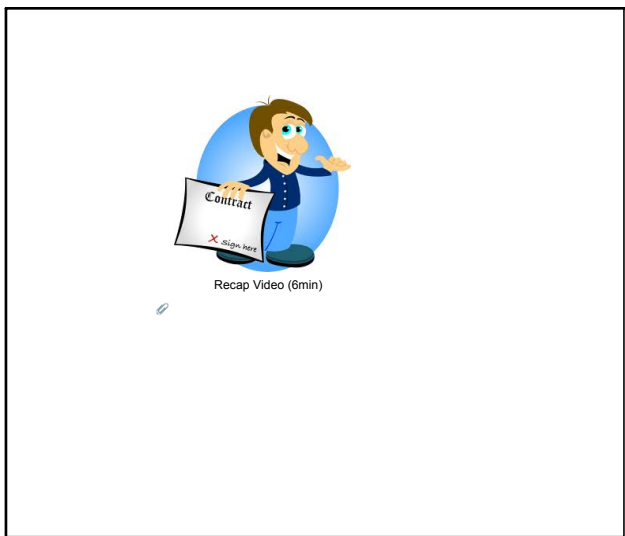
Intoxicated Persons

- From drugs or alcohol
- May be able to disaffirm the contracts made if they were so intoxicated they did not understand what they were doing AND the other party knew or believed them to be intoxicated.
- Not always easy to prove.

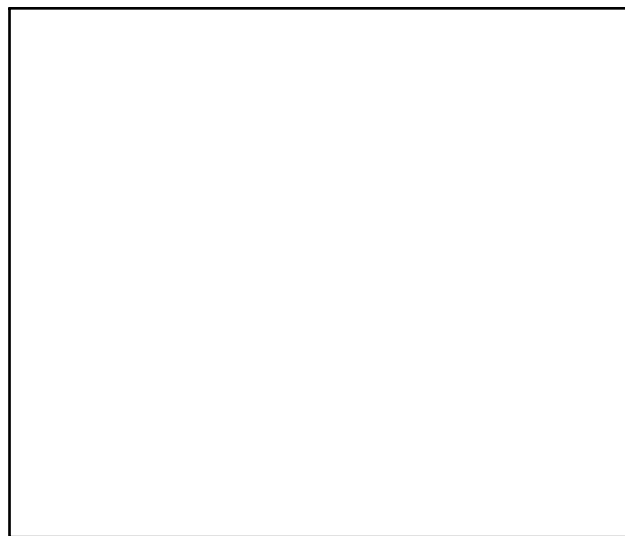


<http://www.youtube.com/watch?v=KsAAADrnYQ>

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