

## Lesson Plan —Mistake, Misrepresentation, and Fraud

**Course Title:** Business Law

**Session Title:** Mistake, Misrepresentation, and Fraud

**Performance Objective:**

- Upon completion of this lesson, the student will recognize mistakes, misrepresentation, and fraud that will end contractual agreements.

**Specific Objectives:**

- Students will recognize the types of mistakes that can make a contract voidable or void.
- Students will list the criteria for a statement to be treated as a misrepresentation.
- Students will define fraud and describe the remedies for it.

### Preparation

**TEKS Correlations:**

This lesson, as published, correlates to the following TEKS. Any changes/alterations to the activities may result in the elimination of any or all of the TEKS listed.

- **120.45(c)(2)(E)**  
...describe defective agreements
- **120.45(c)(2)(F)**  
...describe illegal agreements
- **120.45(c)(2)(G)**  
...research contemporary cases dealing with contract law using appropriate online technology
- **120.45(c)(5)(B)**  
...identify the essentials of negotiability

**Interdisciplinary Correlations:**

**English:**

**110.42(b)(6)(A) – Vocabulary Development**

...expand vocabulary through wide reading, listening, and discussing

**110.42(b)(6)(B) – Vocabulary Development**

...rely on context to determine meanings of words and phrases such as figurative language, idioms, multiple meaning words, and technical vocabulary

**110.42(b)(7)(F) – Reading/comprehension**

...identify main ideas and their supporting details

**110.42(b)(7)(G) – Reading/comprehension**

...summarize texts

**110.42(b)(7)(J) – Reading/comprehension**

...read silently with comprehension for a sustained period of time

**Economics:**

**118.2(c)(8)(B) – Economics**

...analyze how financial institutions affect households and businesses

**Accommodations for Learning Differences:**

[Lesson Plan/Curriculum Modifications Checklist](#)

[Guidelines and Procedures for Adapting Instructional Materials](#)

[Instructor Format for Curriculum Customization for Learning Differences](#)

[Sample Curriculum Customization for Learning Differences](#)

**Teacher Preparation:**

**References:**

1. Law for Business and Personal Use, Eighteenth Edition, John E. Adamson, Southwestern Cengage Learning
2. USA Today and local newspapers.
3. Television Network Newscasts and the Internet
4. uen.org (State of Utah Business Law Curriculum)

**Instructional Aids:**

1. "Mistake, Misrepresentation, and Fraud " PowerPoint Presentation
2. Internet
3. "Damages for Lawsuits Assignment" Assignment
4. "Damages for Lawsuits Assignment" Assignment Rubric
5. "Analyze the Television Commercials for Facts and Personal Opinion" Assignment
6. "Consumer Fraud PowerPoint Presentation" Assignment
7. "Consumer Fraud PowerPoint Presentation" Assignment Rubric

**Materials Needed:**

1. Construction paper
2. Scissors and glue
3. Poster board
4. Current newspapers

**Equipment Needed:**

1. Computers for students to complete projects
2. Projector for PPT

**Learner Preparation:**

- Survey the class to determine how many students have told a white lie, made a misrepresentation on purpose, or stated a fact that later was no longer true due to unforeseen circumstance. Then ask students to give examples of advertisements that made the merchandise look good; however, in reality it wasn't so great. Ask students if the statement meets the following tests: (1) The untrue statement is one of fact or there is active concealment. (2) The statement is material to the transaction or is fraudulent. (3) The victim reasonably relied on the statement.

## Lesson Plan

**Introduction (LSI Quadrant I): Read the following cases and ask students to write their answers.**

1. Austin contracts with Jasmine to purchase one of her two French poodle puppies. Austin believes that he has bought the male puppy for pedigree purposes. Jasmine thinks that Austin bought the female puppy, worth less money. Does a contract exist in this situation?  
Answer: No contract exists because there is a mutual mistake of facts about the identity of the subject matter in this case.
2. Individuals in most states can rely on VIN (vehicle identification number), obtained from the governmental office responsible for title transfers and licensing, for title transfers and licensing a close approximation of the true mileage of the vehicle. Explain how this will decrease consumer fraud caused by turning back the odometer to sell a used car.
3. Europe has a “duty to inform” that is gaining momentum in parts of the United States. If a contracting party does not know to inquire about a potential defect, the law requires that the information be disclosed. Individuals selling a home must indicate previous cases of mold or roof damage caused by a hurricane or tornado.

### Important Terms for this Lesson:



- unilateral mistake - a mistake in which one party holds an incorrect belief about the facts related to a contract
- mutual mistake - a mistake in which both parties have an incorrect belief about an important fact
- material facts - important facts that influence the parties’ decisions about a contract
- fraudulent misrepresentation - an untrue statement by a party in a contract that the party knows is untrue
- fraud - the tort that occurs when one person intentionally misrepresents an existing important fact thereby causing financial injury


### Outline

#### Outline (LSI Quadrant II):










Instructors can use the PowerPoint presentation, slides, handouts, current events, the Internet, and note pages in conjunction with the following outline.

MI	Outline	Notes to Instructor
	I. Types of Contractual Mistakes A. Unilateral mistake - when only one party holds an incorrect belief about the facts or law related to a contract	C Material facts that influence a party’s decision

	<p>B. Mutual (bilateral) mistake - both parties have an incorrect belief about an important fact or the applicable law</p> <p>C. Material facts - important facts that influence the parties' decisions about a contract</p> <p>D. Mutual mistake of fact occurs - the contract is void (without legal effect)</p>	<p>about a contract must be honest for a valid contract.</p> <p>D Mutual mistake voids a contract because both parties misunderstood the contract terms.</p>
	<p>II. What is Misrepresentation?</p> <p>A. Untrue Statement of Fact</p> <ol style="list-style-type: none"> <li>1. Active Concealment - false statement of fact</li> <li>2. Silence <ol style="list-style-type: none"> <li>a. important information about a material fact is omitted</li> <li>b. when a true statement is made false by subsequent events</li> <li>c. when one party knows the other party has made a basic mistaken assumption</li> </ol> </li> </ol> <p>B. Materiality</p> <ol style="list-style-type: none"> <li>1. if the statement would cause a reasonable person to contract</li> <li>2. if the defendant knew this plaintiff would rely on the statement</li> <li>3. if the defendant knew the statement was false</li> </ol> <p>C. Reasonable Reliance - victim relied on the statement</p> <p>D. Innocent misrepresentation and Fraudulent misrepresentation result in voidable contracts</p> <p>E. Statements are Treated as Misrepresentation by the Law If</p> <ol style="list-style-type: none"> <li>1. the untrue statement is one of fact or there is active concealment</li> <li>2. the statement is material to the transaction or is fraudulent</li> <li>3. the victim reasonably relied on the statement</li> </ol>	<p>A Silence can be as deceptive as active concealment (false statement of fact). Knowing that a building has a defect or an automobile has been in a wreck and repaired and remaining silent about both situations results in misrepresentation.</p> <p>C Innocent misrepresentation that intends no harm results in voidable contracts.</p> <p>E Actively concealing the facts that are material to a transaction equals misrepresentation of the law.</p>

	<p>III. Fraud and Remedies for Fraud</p> <p>A. The Misrepresentation Must Be Intentional or Reckless</p> <p>B. The Misrepresentation or Concealment Must Injure</p> <p>C. Remedies for Fraud</p> <ol style="list-style-type: none"> <li>1. Rescission</li> <li>2. Damages</li> <li>3. Punitive Damages</li> </ol>	<p>A Misrepresentation that is intentional is fraud.</p> <p>C Court decisions for the injured party involved with fraud can include punitive damages such as pain and suffering.</p>
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Copy and paste Multiple Intelligences Graphic in appropriate place in left column.

								
Verbal Linguistic	Logical Mathematical	Visual Spatial	Musical Rhythmic	Bodily Kinesthetic	Intra-personal	Inter-personal	Naturalist	Existentialist

### Application

**Guided Practice (LSI Quadrant III):** Using the PowerPoint presentation, the teacher will explain mistake, misrepresentation, and fraud. Students will be able to describe void and voidable contracts due to these three concepts. When the teacher gives examples, students will be able to categorize mistake, misrepresentation, or fraud and the related punishment.

### Independent Practice (LSI Quadrant III):

1. **Damages for Lawsuits Assignment:** Ask students to use the Internet to research lawsuits that have resulted in large settlements for compensatory and punitive damages. Students must write a one-page report about the incident, damages suffered, settlements awarded, and actual amounts received by the winning plaintiffs. This assignment will use the corresponding rubric for evaluation.
2. **Analyze the Television Commercials for Facts and Personal Opinion:** Ask students to watch 10 television commercials and complete the associated table with facts and personal opinions included in the advertisements. This assignment will be evaluated for completion.
3. **Consumer Fraud PowerPoint Presentation:** A government study recently discovered that consumer fraud takes a \$40 billion toll each year on its victims. According to a Harris poll, more than 92 percent of all Americans are affected. Conduct research about consumer fraud and produce a PowerPoint presentation that describes the fraud and explains what can be done to reduce or eliminate it.

This presentation will be evaluated using the associated rubric.

### Summary

#### Review (LSI Quadrants I and IV):

**Q:** Which type of mistake may give both parties the right to rescind?

**A:** mutual mistake

**Q:** How will a statement of opinion by an expert be regarded by the courts?

**A:** The opinion will be treated as a fact.

**Q:** What is fraud?

**A:** Fraud is the tort that occurs when one person intentionally misrepresents an existing important fact thereby causing financial injury.

**Q:** What are material facts?

**A:** Material facts influence the parties' decisions about a contract.

#### STICKER SHOCK

Michael was excited when he purchased his new fuel-efficient automobile. The sticker price on the vehicle stated "38 miles per gallon" highway. Michael has owned the automobile for three months and his fuel efficiency has never exceeded 28 miles per gallon. Does Michael have a legal case against the automobile dealership?

**Answer:** Michael will not have a case because 38 miles per gallon (highway) give the automobile manufacturer and dealership a wide range for actual mileage for the automobile.

### Evaluation

#### Informal Assessment (LSI Quadrant III):

1. Instructor will observe students during Independent Practice.
2. Instructor will assist students as needed

#### Formal Assessment (LSI Quadrant III, IV):

Project #1 and project #3 assigned for Independent Practice will be evaluated with the assigned rubrics. Project #2 will be evaluated for completion. (LSI Quadrant III)

#### Extension/Enrichment (LSI Quadrant IV):

Distribute sample contracts, such as rent agreements, credit card applications, and car rental agreements to small groups. Ask students to review the contracts and list the questions they would ask before signing the contract.

**Business Law - Mistake, Misrepresentation, and Fraud  
Independent Practice Assignment #1  
Damages for Lawsuits**

**Student Name** \_\_\_\_\_

Use the Internet to research lawsuits that have resulted in large settlements for compensatory and punitive damages. You must write a one-page report about the incident, damages suffered, settlements awarded, and actual amounts received by the winning plaintiffs. This assignment will use the corresponding rubric for evaluation.

**Research Report : Damages for Lawsuits  
Business Law - Mistake, Misrepresentation, Fraud  
Independent Practice Assignment #1 Rubric**

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Student Name: \_\_\_\_\_

<b>CATEGORY</b>	<b>25</b>	<b>20</b>	<b>15</b>	<b>10 or less</b>
<b>Organization</b>	Information is very organized with well-constructed paragraphs and subheadings.	Information is organized with well-constructed paragraphs.	Information is organized, but paragraphs are not well-constructed.	The information appears to be disorganized.
<b>Amount of Information</b>	All topics are addressed and all questions answered with at least 2 sentences about each.	All topics are addressed and most questions answered with at least 2 sentences about each.	All topics are addressed, and most questions answered with 1 sentence about each.	One or more topics were not addressed.
<b>Quality of Information</b>	Information clearly relates to the main topic. It includes several supporting details and/or examples.	Information clearly relates to the main topic. It provides 1-2 supporting details and/or examples.	Information clearly relates to the main topic. No details and/or examples are given.	Information has little or nothing to do with the main topic.
<b>Sources</b>	All sources (information and graphics) are accurately documented in the desired format.	All sources (information and graphics) are accurately documented, but a few are not in the desired format.	All sources (information and graphics) are accurately documented, but many are not in the desired format.	Some sources are not accurately documented.

**Total Score** \_\_\_\_\_  
**Maximum 100 Points**

**Business Law – Mistake, Misrepresentation, and Fraud  
 Independent Practice Assignment #2  
 Analyze the Television Commercials for Facts and Personal Opinion**

**Student Name** \_\_\_\_\_

Watch 10 television commercials and complete the following table with facts and personal opinions included in the commercials. Complete the third column of the table to explain if the consumer has any legal recourse from the advertisement. This assignment will be evaluated for completion.

Television Commercial	Facts in the Commercial	Opinions in the Commercial	Legal Recourse for the Consumer

**Business Law – Mistake, Misrepresentation, and Fraud  
Independent Practice Assignment #3  
Consumer Fraud PowerPoint Presentation**

**Student Name** \_\_\_\_\_  
**Student Name** \_\_\_\_\_

Assignment may be completed as a team or individual. A government study recently discovered that consumer fraud takes a \$40 billion toll each year on its victims. According to a Harris poll, more than 92 percent of all Americans are affected. Conduct research about consumer fraud and produce a PowerPoint presentation that describes the fraud and explains what can be done to reduce or eliminate it. This presentation will be evaluated using the associated rubric.

## Multimedia Project: Consumer Fraud PowerPoint Business Law – Mistake, Misrepresentation, and Fraud Independent Practice Assignment #3 Rubric

Student Name: \_\_\_\_\_

CATEGORY	20	15	10	5 or less
<b>Presentation</b>	Well-rehearsed with smooth delivery that holds audience attention.	Rehearsed with fairly smooth delivery that holds audience attention most of the time.	Delivery not smooth, but able to maintain interest of the audience most of the time.	Delivery not smooth and audience attention often lost.
<b>Content</b>	Covers topic in-depth with details and examples. Subject knowledge is excellent.	Includes essential knowledge about the topic. Subject knowledge appears to be good.	Includes essential information about the topic but there are 1-2 factual errors.	Content is minimal or there are several factual errors.
<b>Requirements</b>	All requirements are met and exceeded.	All requirements are met.	One requirement was not completely met.	More than one requirement was not completely met.
<b>Organization</b>	Content is well organized using headings or bulleted lists to group related material.	Uses headings or bulleted lists to organize, but the overall organization of topics appears flawed.	Content is logically organized for the most part.	There was no clear or logical organizational structure, just lots of facts.
<b>Originality</b>	Product shows a large amount of original thought. Ideas are creative and inventive.	Product shows some original thought. Work shows new ideas and insights.	Uses other people's ideas (giving them credit), but there is little evidence of original thinking.	Uses other people's ideas, but does not give them credit.

**Total Score** \_\_\_\_\_  
**Maximum 100 Points**