A contract may meet the necessary formation requirements of offer and acceptance, consideration, and intention to create legal relations, but still not be binding because it lacks other necessary factors. These invalidating factors are sometimes referred to as ‘vitiating factors’. This chapter discusses statements that constitute actionable misrepresentations; the difference between fraudulent, negligent, and innocent misrepresentation; the remedies available for each type of misrepresentation; and the effect a misrepresentation will have on the validity of a contract. The chapter considers types of mistake and when a court will regard a mistake as an operative mistake rendering the contract void. It also considers how duress and undue influence may arise, the presumptions relating to undue influence, and whether the presence of duress and undue influence will make a contract voidable. Finally, the chapter considers types of contract that are illegal under statute and under common law.
7. Vitiating Factors

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