Contracts: Capacity, Legality, Assent, and Form
Capacity to Contract
Capacity = legal ability to enter into a contract
○ Minors-Must be 18 (age of majority)
  ○ Can enter into any contract that an adult can
  ○ Unless prohibited by law
- Minor can void the contract at his/her option
- DISAFFIRMANCE
  - Setting aside a contract
  - Manifest an intention not to be bound
    - Words or conduct
- Minor’s obligations upon disaffirmance
  - Return the goods if still in their possession
  - Restore the other party to its former position
Timing of disaffirmance

- Any time during minority or reasonable time after
Exceptions to right to disaffirm in some states

- Marriage k’s and k’s to enlist
- Committing an act of fraud
Exceptions: Misrepresentation of age

Some states prohibit disaffirmance if misrepresentation occurred
Contracts for NECESSARIES

- May disaffirm but must still pay reasonable value

- If under a parent’s care, goods or services furnished aren’t necessaries
Yale v. Estate of Fountain
Ratification
- Minor indicates intent to be bound by the contract

- Happens upon reaching age of majority
How a minor can ratify a contract:

- Expressly or by action
- Parental liability for minor children’s contracts
  - None unless they are a co-party
Learning Objective One
Answer to L.O. One

- Fraud
- Insurance contracts, marriage contracts, enlistment contracts
Intoxication
A party was intoxicated at time contract was made

- If the party lacked the mental capacity to think
  - Contract may be voidable
  - Must return all consideration
Learning Objective Two
Answer to Learning Objective Two

- If sufficiently intoxicated to lack mental capacity, contract is voidable
Mental Incapacity
• Void contract

• *Person is mentally incompetent and a guardian has been appointed*
Voidable contract

Person not declared to be incompetent but was incompetent at time of contracting
Voidable contract

- May be disaffirmed
- May be ratified by a guardian
- Must return any consideration
- Liable for value of necessaries
- Valid contract
  - Mentally incompetent person had capacity at time contract was formed
Legality

- Contract to do something prohibited by statute or public policy is illegal and void
Contracts contrary to statute
Contracts to commit a crime

- Not enforceable

- If illegal after entered into, contract is discharged
○ Usury-Limit on rates of interest
  ○ Exceptions-Private persons vs. businesses
  ○ Effects
Licensing statutes

Contracts with unlicensed persons enforceable?

Purpose of statute

Raise money?

Protect the public?
Contracts Contrary to Public Policy
- Contracts involve private parties or businesses

- Have impact on society

- Who decides?