

## 1900. Intentional Misrepresentation

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**[Name of plaintiff] claims that [name of defendant] made a false representation that harmed [him/her/nonbinary pronoun/it]. To establish this claim, [name of plaintiff] must prove all of the following:**

- 1. That [name of defendant] represented to [name of plaintiff] that a fact was true;**
- 2. That [name of defendant]’s representation was false;**
- 3. That [name of defendant] knew that the representation was false when [he/she/nonbinary pronoun] made it, or that [he/she/nonbinary pronoun] made the representation recklessly and without regard for its truth;**
- 4. That [name of defendant] intended that [name of plaintiff] rely on the representation;**
- 5. That [name of plaintiff] reasonably relied on [name of defendant]’s representation;**
- 6. That [name of plaintiff] was harmed; and**
- 7. That [name of plaintiff]’s reliance on [name of defendant]’s representation was a substantial factor in causing [his/her/nonbinary pronoun/its] harm.**

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*New September 2003; Revised December 2012, December 2013*

### Directions for Use

Give this instruction in a case in which it is alleged that the defendant made an intentional misrepresentation of fact. (See Civ. Code, § 1710(1).) If element 5 is contested, give CACI No. 1907, *Reliance*, and CACI No. 1908, *Reasonable Reliance*. If it is disputed that a representation was made, the jury should be instructed that “a representation may be made orally, in writing, or by nonverbal conduct.” (See *Thrifty-Tel, Inc. v. Bezenek* (1996) 46 Cal.App.4th 1559, 1567 [54 Cal.Rptr.2d 468].)

The representation must ordinarily be an affirmation of fact, as opposed to an opinion. (See *Cohen v. S&S Construction Co.* (1983) 151 Cal.App.3d 941, 946 [201 Cal.Rptr. 173].) Opinions are addressed in CACI No. 1904, *Opinions as Statements of Fact*.

### Sources and Authority

- Actionable Deceit. Civil Code section 1709.
- Intentional Misrepresentation. Civil Code section 1710(1).
- Fraud in Contract Formation. Civil Code section 1572.