

**13-837. Incapacity.**

[If \_\_\_\_\_ (*obligor*) due to [mental infirmity] [physical infirmity] [intoxication] was incapable of understanding what [he] [she] was doing when [he] [she] entered into the contract, then \_\_\_\_\_ (*obligor*) is excused from the obligation to perform the contract.]

[\_\_\_\_\_ was a minor when [he] [she] entered into the contract. Therefore, if \_\_\_\_\_ demonstrated [within a reasonable time after reaching majority] that [he] [she] does not intend to be bound by the contract, then [he] [she] is excused from the obligation to perform the contract.]

**USE NOTE**

The bracketed paragraphs are to be used as alternatives depending on whether the claim of incapacity arises from minority or some physical, mental or other infirmity. The first bracketed paragraph addresses incapacity arising from infirmity. The list of disabling causes is not intended to be exhaustive. Other categories may be used if supported by the law and the facts. The bracketed language in the second alternative paragraph is to be used only if the evidence creates a fact issue as to the timeliness of the minor's claimed disaffirmance. If the fact of the contract obligor's minority at the time the contract was entered into is at issue, the instruction will have to be rewritten appropriately. See UJI 13-839 NMRA regarding undue influence. [Adopted, effective November 1, 1991.]