

# Table of Contents

---

<b>PART I</b>	<b>GENERAL CHARACTERISTICS OF CHECKS</b>
<b>Chapter 1</b>	<b>The Legal Background and Kinds of Checks</b>
§ 1.01	ORIGIN AND HISTORY OF BANK CHECKS
§ 1.02	DEVELOPMENT OF THE LAW
[1]	The Law Merchant
[2]	Federal Law Merchant and Federal Common Law
§ 1.03	THE UNIFORM NEGOTIABLE INSTRUMENTS ACT
§ 1.04	OTHER STATUTES AFFECTING CHECKS
§ 1.05	THE UCC
§ 1.06	1962 VERSION OF UCC ARTICLES 3 AND 4
§ 1.07	1990 VERSION OF UCC ARTICLES 3 AND 4
[1]	In General
[2]	2002 Amendments to UCC Articles 3 and 4
[A]	In General
[B]	Record
[C]	Lost Instruments
[D]	Other Changes
§ 1.08	THE EXPEDITED FUNDS AVAILABILITY ACT AND REGULATION CC
§ 1.09	DEFINITION OF "CHECK"
§ 1.10	GENERAL CHARACTERISTICS OF CHECKS
§ 1.11	CHECKS AS DRAFTS
§ 1.12	PAYABLE-THROUGH DRAFTS
§ 1.13	INSTRUMENTS PAYABLE AT BANK
§ 1.14	DIFFERENCE BETWEEN CHECKS AND NOTES
§ 1.15	GOVERNMENT CHECKS AND WARRANTS
§ 1.16	CASHIER'S CHECKS
§ 1.17	TELLER'S CHECKS OR BANK DRAFTS
§ 1.18	CERTIFIED CHECKS
§ 1.19	TRAVELER'S CHECKS
§ 1.20	BANK MONEY ORDERS AND PERSONAL MONEY ORDERS
§ 1.21	NEGOTIABLE ORDERS OF WITHDRAWAL
§ 1.22	CREDIT UNION SHARE DRAFTS

---

## *Table of Contents*

§ 1.23	TRUNCATED CHECKS
[1]	In General
[2]	Check 21 Act
§ 1.24	DEFINITION OF “BANK”
§ 1.25	THE 1962 UCC DEFINITION OF “GOOD FAITH”
§ 1.26	THE 1990 UCC DEFINITION OF “GOOD FAITH” INCLUDING COMMERCIAL FAIR DEALING
[1]	In General
[2]	Tort Law as A Factor
[3]	Notice or Knowledge as A Factor
[4]	Knowledge as Bad Faith
[5]	Unconscionability
[6]	Cases Involving Good Faith as Observance of Reasonable Commercial Standards
§ 1.27	THE 1990 UCC DEFINITION OF “ORDINARY CARE”
[1]	In General
[2]	Ordinary Care as Permitting Use of Automated Practices
[3]	Decisions Allocating Liability on Basis of Comparative Negligence

---

## **Chapter 2                      Negotiability and Essential Elements of Check**

---

§ 2.01	NEGOTIABILITY IN GENERAL
§ 2.02	NECESSITY OF WRITING
§ 2.03	NECESSITY OF SIGNATURE
§ 2.04	CHECK MUST BE UNCONDITIONAL
§ 2.05	PAYMENT FROM PARTICULAR FUND
§ 2.06	CHECK MUST BE FOR DEFINITE AMOUNT IN MONEY
§ 2.07	CHECK PAYABLE IN FOREIGN MONEY
§ 2.08	TIME OF PAYMENT
§ 2.09	DATE
§ 2.10	POSTDATED CHECKS
§ 2.11	CHECK MUST BE PAYABLE TO ORDER OR BEARER
§ 2.12	NAMING THE PAYEE
§ 2.13	DRAWEE OR PAYOR
§ 2.14	CHECK NUMBER
§ 2.15	RECITAL OF CONSIDERATION AND EFFECT OF SEAL
§ 2.16	WHY NEGOTIABLE CHECKS?

---

## *Table of Contents*

§ 2.17                    **TECHNICALLY NONNEGOTIABLE CHECKS**

---

### **Chapter 3                    Problems of Signatures and Other Ambiguities**

---

- § 3.01                    **FORM OF SIGNATURE**
- § 3.02                    **FACSIMILE SIGNATURE**
- [1]                    **Hold-Harmless Agreement**
- [2]                    **Bank Liability Indicated**
- § 3.03                    **PROOF OF SIGNATURE**
- § 3.04                    **REQUIREMENT OF SIGNATURE FOR LIABILITY**
- § 3.05                    **SIGNATURE BY AGENT**
- § 3.06                    **PERSONAL LIABILITY OF SIGNING AGENT**
- [1]                    **In General**
- [2]                    **Liability Where Principal Is Named but Agency Is Not Shown**
- [3]                    **When Individual Signer May Not Be Liable**
- [4]                    **Liability Where Check Is on Account of Named Principal but Agency Is Not Shown**
- [5]                    **Liability Where Agency Is Shown but Principal Is Not Named**
- [6]                    **Liability Where Principal Is Named and Agency Is Also Shown**
- [7]                    **Joint Liability of Principal and Signing Agent**
- [8]                    **Liability Where Principal Is Not Named and Agency Is Not Shown**
- [9]                    **Liability Where Principal Alone Is Named and Agent Does Not Sign His or Her Own Name**
- [10]                    **Liability Where Agent Is Not Authorized to Sign**
- [11]                    **Other Personal Liability of Agent**
- § 3.07                    **SIGNATURE BY EXECUTOR OR TRUSTEE**
- § 3.08                    **DISCREPANCY BETWEEN WRITING AND FIGURES**
- § 3.09                    **OTHER AMBIGUITIES AND DISCREPANCIES**

---

### **Chapter 4                    Effect of Giving Check**

---

- § 4.01                    **CHECK AS ASSIGNMENT OF FUNDS: THE GENERAL RULE**
- § 4.02                    **WHEN BANK MAY BE LIABLE TO HOLDER**
- § 4.03                    **RIGHTS OF HOLDER ON INSOLVENCY OF DRAWER**

---

## *Table of Contents*

§ 4.04	DELIVERY OF CHECK AS PAYMENT
[1]	The 1962 UCC Rule
[2]	The 1990 UCC Rule
§ 4.05	CHECK AS SUSPENDING BUT NOT DISCHARGING DEBT
§ 4.06	WHEN DEBT IS CONSIDERED PAID
[1]	Nonbankruptcy Cases
[2]	Bankruptcy Cases
§ 4.07	DISCHARGEABILITY OF DEBT PAID WITH BAD CHECK IN BANKRUPTCY
§ 4.08	WHERE CHECK IS ABSOLUTE PAYMENT PURSUANT TO AGREEMENT OR CONDUCT
§ 4.09	CHECK TO PAY INSTALLMENT ON LOAN AS EFFECTIVE PAYMENT
§ 4.10	CHECK OF THIRD PERSON AS ABSOLUTE PAYMENT
§ 4.11	BANK OBLIGATION AS ABSOLUTE PAYMENT
§ 4.12	CHECK “IN FULL PAYMENT”
[1]	In General
[2]	Effect of Certification or Retention by Creditor
[3]	Taking Full-Payment Check With Reservation of Rights
[4]	Rejection of Attempted Reservation of Rights
§ 4.13	ACCORD AND SATISFACTION BY USE OF CHECK UNDER THE 1990 UCC
[1]	In General
[2]	Cases Finding Accord and Satisfaction Present
[a]	Alabama
[b]	Arkansas
[c]	California
[d]	Connecticut
[e]	District of Columbia
[f]	Georgia
[g]	Idaho
[h]	Illinois
[i]	Indiana
[j]	Kansas
[k]	Kentucky
[l]	Massachusetts
[m]	Michigan

---

## Table of Contents

[n]	<i>Minnesota</i>
[o]	<i>Mississippi</i>
[p]	<i>New Hampshire</i>
[q]	<i>North Carolina</i>
[r]	<i>Ohio</i>
[s]	<i>Texas</i>
[t]	<i>Utah</i>
[u]	<i>Virginia</i>
[v]	<i>West Virginia</i>
[w]	<i>Wisconsin</i>
[x]	<i>Wyoming</i>
[3]	<b>Cases Finding Accord and Satisfaction Not Present</b>
[a]	<i>Arkansas</i>
[b]	<i>California</i>
[c]	<i>Connecticut</i>
[d]	<i>Delaware</i>
[e]	<i>Idaho</i>
[f]	<i>Illinois</i>
[g]	<i>Kansas</i>
[h]	<i>Louisiana</i>
[i]	<i>Maryland</i>
[j]	<i>Massachusetts</i>
[k]	<i>Michigan</i>
[l]	<i>Minnesota</i>
[m]	<i>North Carolina</i>
[n]	<i>Ohio</i>
[o]	<i>Oklahoma</i>
[p]	<i>Pennsylvania</i>
[q]	<i>Texas</i>
[r]	<i>Vermont</i>
[s]	<i>Virginia</i>
[t]	<i>Washington</i>
§ 4.14	<b>TIME FOR BRINGING ACTION ON CHECK</b>
[1]	The 1962 UCC
[2]	The 1990 UCC
[3]	Instruments Uncollected Over Long Period of Time
§ 4.15	<b>LOST CHECKS</b>
[1]	Generally

---

## *Table of Contents*

[2]	The 1990 UCC Rule
[3]	The 2002 Amendment
§ 4.16	LOST CASHIER'S, TELLER'S, OR CERTIFIED CHECKS
[1]	Generally
[2]	The 1990 UCC
§ 4.17	EFFECT OF VOLUNTARY SURRENDER OF CHECK
§ 4.18	CHECK AS SATISFYING STATUTE OF FRAUDS

---

## **PART II CHECK PROBLEMS PRIOR TO COLLECTION OR PAYMENT**

---

### **Chapter 5 Delivery and Incomplete Checks**

---

§ 5.01	WHAT CONSTITUTES ISSUE AND DELIVERY
§ 5.02	WHEN THERE IS NO DELIVERY
§ 5.03	PRESUMPTION AND PROOF OF DELIVERY
§ 5.04	WHEN DEFENSE OF NONDELIVERY IS NOT AVAILABLE
§ 5.05	PRESUMPTION AGAINST DELIVERY
§ 5.06	CONDITIONAL DELIVERY OR DELIVERY FOR SPECIAL PURPOSE
§ 5.07	DELIVERY OF CHECK BY MAIL
§ 5.08	INCOMPLETE CHECKS: GENERALLY
§ 5.09	COMPLETION OF CHECK ISSUED IN INCOMPLETE FORM
§ 5.10	UNAUTHORIZED COMPLETION OF INCOMPLETE CHECK
§ 5.11	INCOMPLETE CHECK NOT DELIVERED

---

### **Chapter 6 Value and Consideration for Checks**

---

§ 6.01	NECESSITY OF CONSIDERATION: DEFINITION OF "CONSIDERATION"
§ 6.02	"VALUE" DEFINED
§ 6.03	DISTINCTION BETWEEN CONSIDERATION AND VALUE
§ 6.04	ANTECEDENT DEBT AS CONSIDERATION OR VALUE
§ 6.05	EXECUTORY PROMISE AS VALUE
§ 6.06	GIVING INSTRUMENT OR IRREVOCABLE OBLIGATION AS VALUE

---

***Table of Contents***

§ 6.07

**SECURITY INTEREST AS VALUE**

§ 6.08

**BANK CREDIT FOR DEPOSITED CHECK AS VALUE**

[1]

**Bank's Security Interest**

*(Text continued on page xxi)*

---

## *Table of Contents*

[2]	Value Where Bank Permits Drawing Against Uncollected Funds
[3]	Value Where Bank Cashes a Check
[4]	Application of Check Against Loan or Overdraft
[5]	Credit on Deposited Check Available for Withdrawal as of Right
[6]	Depository Bank's Loss of Security Interest
§ 6.09	WHEN BANK CREDIT FOR DEPOSITED CHECK IS NOT VALUE
§ 6.10	FIRST-IN, FIRST-OUT RULE AND SPREADING OF BANK'S SECURITY INTEREST
§ 6.11	ACCOMMODATION CHECKS
§ 6.12	GIFT OF CHECK
§ 6.13	ABSENCE OR FAILURE OF CONSIDERATION
§ 6.14	PROOF OF CONSIDERATION

---

## **Chapter 7 Indorsement and Transfer**

---

§ 7.01	WHAT CONSTITUTES TRANSFER OF A CHECK
§ 7.02	WHAT CONSTITUTES NEGOTIATION OF A CHECK
§ 7.03	INDORSEMENT OF CHECK AND LOCATION OF INDORSEMENT
§ 7.04	FORM OF INDORSEMENT
§ 7.05	WRONG OR MISSPELLED NAME
§ 7.06	INDORSEMENT IN BLANK
§ 7.07	SPECIAL INDORSEMENT
§ 7.08	BLANK INDORSEMENT CHANGED TO SPECIAL INDORSEMENT
§ 7.09	RESTRICTIVE INDORSEMENT
[1]	The 1962 UCC
[2]	The 1990 UCC
§ 7.10	CONDITIONAL INDORSEMENT
§ 7.11	QUALIFIED OR WITHOUT-RECOURSE INDORSEMENT
§ 7.12	INDORSEMENT CONTAINING WORDS OF ASSIGNMENT OR GUARANTY
§ 7.13	CHECK PAYABLE TO TWO OR MORE PERSONS
[1]	In General
[2]	Liability Where Joint Payee's Indorsement Is Missing

---

## *Table of Contents*

[3]	Nonliability Where One Indorsement Is Missing
[4]	Ambiguity in Naming Payees
§ 7.14	CHECK PAYABLE TO AGENT OR FIDUCIARY
§ 7.15	INDORSEMENT BY INFANT OR OTHER PERSON LACKING LEGAL CAPACITY
§ 7.16	TRANSFER WITHOUT INDORSEMENT
[1]	Generally
[2]	Right to Obtain Indorsement
§ 7.17	REACQUISITION: STRIKING OUT INDORSEMENTS
§ 7.18	INDORSER'S ENGAGEMENT TO HONOR UNPAID CHECK
§ 7.19	LIABILITY OF INDORSER WHERE PAPER NEGOTIABLE BY DELIVERY
§ 7.20	ORDER IN WHICH INDORSERS ARE LIABLE
§ 7.21	ENGAGEMENT OF ONE WHO TRANSFERS WITHOUT INDORSEMENT
§ 7.22	WARRANTIES OF INDORSER OR TRANSFEROR
[1]	Generally
[2]	Transfer Warranties

---

<b>Chapter 8</b>	<b>Holders in Due Course; Good Faith and Absence of Notice</b>
------------------	--------------------------------------------------------------------

---

§ 8.01	HOLDER DEFINED
§ 8.02	WHEN PERSON IN POSSESSION IS NOT A HOLDER
§ 8.03	PERSON ENTITLED TO ENFORCE INSTRUMENT: 1990 UCC
§ 8.04	HOLDER IN DUE COURSE
[1]	1962 UCC
[2]	1990 UCC Rule
§ 8.05	REQUIREMENT OF GOOD FAITH
[1]	In General
[2]	Application of Good-Faith Requirement
[3]	Where Bank Permits Drawing Against Uncollected Funds
[4]	Cashing Check for Stranger or Noncustomer
[5]	Where Lack of Good Faith Is Shown
§ 8.06	NOTICE OF CLAIM OR DEFENSE
[1]	In General
[2]	Where Notice Is Not Given

---

## *Table of Contents*

- [3] Antedated, Postdated, or Undated Check
- [4] Incompleteness or Irregularity
- [5] Notice of Voidable Obligation or Executory Consideration
- [6] Other Instances of Notice

---

### **Chapter 9 Other Problems of Holders in Due Course**

---

- § 9.01 OVERDUE CHECKS
- § 9.02 DISHONORED CHECKS
- § 9.03 NOTICE BEFORE FULL VALUE GIVEN OR FULL AMOUNT PAID
- § 9.04 PAYEE MAY BE HOLDER IN DUE COURSE
  - [1] In General
  - [2] Where Payee Is Holder in Due Course
  - [3] Where Payee Is Not Holder in Due Course
- § 9.05 TRANSFEREE NOT IN USUAL COURSE OF BUSINESS
- § 9.06 PERSON DERIVING TITLE THROUGH HOLDER IN DUE COURSE: SHELTER RULE
- § 9.07 BURDEN OF PROOF OF HOLDER-IN-DUE-COURSE STATUS
- § 9.08 POWER OF HOLDER TO TRANSFER AND OBTAIN PAYMENT
- § 9.09 DEFENSES AVAILABLE AGAINST HOLDER NOT IN DUE COURSE
  - [1] 1962 UCC
  - [2] 1990 UCC
- § 9.10 DEFENSE BASED ON THIRD PERSON'S CLAIM: JUS TERTII RULE
- § 9.11 RIGHTS OF HOLDER IN DUE COURSE
- § 9.12 REAL DEFENSES
  - [1] In General
  - [2] Illegality of Transaction
  - [3] Checks Used in Gambling Transactions

---

### **Chapter 10 Certification**

---

- § 10.01 GENERAL CHARACTERISTICS OF CERTIFICATION
- § 10.02 OBLIGATION OF BANK TO CERTIFY AND RIGHT TO IMPOSE CONDITIONS: AUTHORITY TO CERTIFY
- § 10.03 CERTIFICATION MUST BE IN WRITING AND SIGNED

---

## *Table of Contents*

§ 10.04	CERTIFICATION BY TELEGRAM OR OTHER SEPARATE WRITING
§ 10.05	EFFECT OF CERTIFICATION
§ 10.06	DISCHARGE OF PARTIES TO CHECK
§ 10.07	CERTIFICATION OF IRREGULAR CHECK
§ 10.08	CERTIFICATION OF POSTDATED CHECK
§ 10.09	CERTIFICATION BY MISTAKE OR OBTAINED BY FRAUD
§ 10.10	CERTIFICATION AFTER STOPPED PAYMENT
§ 10.11	RIGHT OF BANK TO CANCEL CERTIFICATION
§ 10.12	STOPPING PAYMENT OF CERTIFIED CHECK
§ 10.13	CERTIFICATION OF STALE CHECK
§ 10.14	ABSENCE OF INDORSEMENT ON CERTIFIED CHECK
§ 10.15	CERTIFICATION OF OVERDRAFT CHECK
§ 10.16	FORGERY OF CERTIFICATION
§ 10.17	FORGED DRAWER'S SIGNATURE ON CERTIFIED CHECK
§ 10.18	FORGED INDORSEMENT ON CERTIFIED CHECK
§ 10.19	CERTIFICATION OF ALTERED CHECK
[1]	1962 UCC
[2]	1990 UCC
§ 10.20	ALTERATION AFTER CERTIFICATION
§ 10.21	RETENTION OF CHECK AS CERTIFICATION

---

## **PART III                   DEPOSIT AND COLLECTION OF CHECKS**

### **Chapter 11               General Principles of Bank Deposits and Collections**

---

§ 11.01	TYPES OF BANKS IN COLLECTION PROCESS
§ 11.02	DEFINITION OF "ITEM"
§ 11.03	DEFINITION OF "CUSTOMER"
§ 11.04	THE CHECK COLLECTION PROCESS
§ 11.05	BASIC NATURE OF CHECKING ACCOUNT
§ 11.06	BANK-DEPOSITOR COLLECTION AGREEMENTS
§ 11.07	FEDERAL RESERVE REGULATIONS AND OPERATING LETTERS
§ 11.08	CLEARINGHOUSE RULES
§ 11.09	GENERAL DUTIES OF COLLECTING BANK
[1]	In General

---

## *Table of Contents*

[2]	Extent of Duties and Compliance by Bank
[3]	Proper Crediting of Deposit
[4]	Where Duties Are Not Complied With
§ 11.10	<b>ROUTING OF CHECKS</b>
§ 11.11	<b>EFFECT OF INSTRUCTIONS</b>
§ 11.12	<b>TIME LIMITS OF ACTION BY COLLECTING BANK</b>
[1]	In General
[2]	Branch as Separate Office of Bank
[3]	Establishing Cutoff Hour: Extension of Time Limits
§ 11.13	<b>TITLE TO DEPOSITED CHECKS AND AGENCY OF BANK</b>
§ 11.14	<b>APPLICATION OF TITLE AND AGENCY RULES</b>
§ 11.15	<b>STATUS OF INTERMEDIARY BANK</b>

---

### **Chapter 12                      Problems of Bank Deposits and Collections**

---

§ 12.01	<b>DEPOSITS IN NIGHT DEPOSITARY</b>
§ 12.02	<b>LOST CHECKS IN PROCESS OF COLLECTION</b>
§ 12.03	<b>MISSING INDORSEMENTS IN BANK COLLECTION</b>
[1]	1962 UCC Rule
[2]	Where Check Is Not Indorsed and Indorsement Is Not Supplied: 1962 UCC
[3]	1990 UCC Rule: Lockbox Arrangements
§ 12.04	<b>RESTRICTIVE INDORSEMENTS IN BANK COLLECTION OF CHECKS</b>
[1]	In General
[1]	Bank Liability for Permitting Deposit Contrary to Restrictive Indorsement
[2]	Where Bank Is Not Liable
§ 12.05	<b>“PAY ANY BANK” INDORSEMENTS</b>
§ 12.06	<b>GUARANTY OF PRIOR INDORSEMENTS</b>
§ 12.07	<b>BANK INDORSEMENT STAMP SIMPLIFICATION</b>
[1]	In General
[2]	Federal Reserve Requirements on Bank Indorsements
[3]	Federal Reserve Statements on Bank Indorsements
§ 12.08	<b>COLLECTION AND PRESENTMENT WARRANTIES TO PAYOR BANK</b>
[1]	The 1962 UCC
[2]	The 1990 UCC

---

## *Table of Contents*

§ 12.09	WARRANTIES TO COLLECTING BANKS
§ 12.10	DAMAGES FOR BREACH OF WARRANTY
§ 12.11	OTHER WARRANTY PROVISIONS
§ 12.12	REMOTELY CREATED DEMAND DRAFTS
§ 12.13	WARRANTIES UNDER CHECK 21 ACT

---

### **Chapter 13      Check of Principal or Trust Used by Agent or Fiduciary for Personal Benefit**

---

§ 13.01	THE GENERAL PROBLEM
§ 13.02	EFFECT OF THE UNIFORM FIDUCIARIES ACT AND THE UCC
§ 13.03	CHECK TO THIRD PERSON USED TO PAY AGENT'S DEBT
§ 13.04	WHERE CHECK IS SIGNED BY A DIFFERENT AGENT
§ 13.05	Check to 3rd Person Deposited in Agent's Account
[1]	In General
[1]	Where Statute of Limitations Applies
§ 13.06	CHECK TO THIRD PERSON OTHERWISE DIVERTED FOR AGENT'S BENEFIT
§ 13.07	CHECK TO THIRD PERSON: LIABILITY NOT INDICATED
§ 13.08	CHECK TO AGENT USED FOR AGENT'S BENEFIT
§ 13.09	CHECK TO PRINCIPAL DEPOSITED IN AGENT'S ACCOUNT
§ 13.10	CHECK TO PRINCIPAL USED OTHERWISE FOR AGENT'S BENEFIT
§ 13.11	CHECK TO PRINCIPAL: LIABILITY NOT INDICATED
§ 13.12	CHECK TO TRUSTEE, EXECUTOR, OR OTHER FIDUCIARY
[1]	In General
[2]	The 1962 UCC
[3]	The 1990 UCC
[4]	Where Bank May Be Liable
§ 13.13	PAYMENT OF CHECK IMPROPERLY SIGNED BY AGENT
[1]	Generally
[2]	Where Drawer Is Corporation or Other Organization
§ 13.14	PAYMENT OF CHECK ON ACCOUNT IN NAME OF FIDUCIARY OR AGENT

---

## *Table of Contents*

- [1] When Bank Is Not Liable  
[2] When Bank Is Liable

---

### **Chapter 14 Presentment for Payment**

---

- § 14.01 NECESSITY OF PRESENTMENT OF CHECK FOR PAYMENT  
§ 14.02 DUTY OF BANK TO MAKE PRESENTMENT  
§ 14.03 BY WHOM PRESENTMENT MAY BE MADE  
§ 14.04 MANNER OF PRESENTMENT  
§ 14.05 PLACE OF PRESENTMENT  
§ 14.06 DIRECT ROUTING TO PAYOR BANK  
§ 14.07 PRESENTMENT THROUGH CLEARINGHOUSE  
§ 14.08 PRESENTMENT AT BANK PROCESSING CENTER  
§ 14.09 TIME OF PRESENTMENT  
§ 14.10 TIME OF PRESENTMENT OF CERTIFIED CHECKS AND CERTAIN OTHER CHECKS  
§ 14.11 TIME OF PRESENTMENT OF POSTDATED CHECKS  
§ 14.12 PRESENTMENT OUTSIDE BANKING HOURS  
§ 14.13 WHEN PRESENTMENT MAY BE DELAYED OR EXCUSED  
§ 14.14 DISCHARGE OF INDORSER BY NONPRESENTMENT OR DELAYED PRESENTMENT  
§ 14.15 DISCHARGE OF DRAWER BY NONPRESENTMENT OR DELAYED PRESENTMENT  
§ 14.16 ELECTRONIC PRESENTMENT: WARRANTIES

---

### **PART IV PAYMENT OF CHECKS AND OTHER FUNDS TRANSFERS**

---

### **Chapter 15 Final Payments of Checks**

---

- § 15.01 PAYMENT: A BIRD'S-EYE VIEW  
§ 15.02 WHAT CONSTITUTES FINAL PAYMENT: GENERALLY  
§ 15.03 FINAL PAYMENT OF ON-US CHECK IN CASH OR BY CASHIER'S CHECK  
§ 15.04 PAYMENT WHEN ON-US CHECK IS DEPOSITED  
§ 15.05 FINAL PAYMENT OR PROVISIONAL SETTLEMENT THROUGH CREDIT OR CLEARINGHOUSE SETTLEMENT

---

## *Table of Contents*

§ 15.06	REMITTANCE DRAFT OR CHECK AS FINAL PAYMENT
§ 15.07	COMPLETION OF THE PROCESS OF POSTING AS FINAL PAYMENT
§ 15.08	RETENTION BY PAYOR BANK AS FINAL PAYMENT: THE GENERAL RULE
§ 15.09	FINAL PAYMENT OF DRAFT ON NONBANK DRAWEE
§ 15.10	AMBIGUITY OF STATUS OF BANK AS COLLECTING OR PAYOR BANK
[1]	Bank Held to Be Payor Bank
[2]	Bank Held to Be Collecting Bank
§ 15.11	DEFERRED POSTING
§ 15.12	APPLICATION OF DEFERRED POSTING RULE
§ 15.13	FINALITY OF PAYMENT
[1]	The Rule Under the 1962 and 1990 UCC
[2]	When There Is Finality of Payment
[3]	Restitution of Final Payment
§ 15.14	PRESUMPTION OF PAYMENT
§ 15.15	WHEN NOTICE, PROCESS, STOP-PAYMENT ORDER, OR SETOFF COMES TOO LATE
[1]	In General
[1]	When Notice, Process, or Stop Order Is Timely
[2]	When Notice, Process, or Stop Order Is Untimely
[3]	When Bank May Charge Fee for Garnishment of Account
§ 15.16	PROBLEMS RELATING TO SETOFFS
[1]	In General
[2]	Effectiveness of Setoff Against Check

---

## **Chapter 16**      **Problems of Payment of Checks**

---

§ 16.01	BANK'S OBLIGATION TO PAY CHECK
[1]	In General
[2]	Right of Bank to Impose Conditions to Payment
[3]	Discharge Without Payment
§ 16.02	ADVERSE CLAIM TO DEPOSIT AS AFFECTING PAYMENT OF CHECK
§ 16.03	ADVERSE CLAIM TO CHECK
§ 16.04	PAYOR BANK'S RIGHT TO INDORSEMENT ON PAYING CHECK

---

## *Table of Contents*

§ 16.05	UNINDORSED OR IMPROPERLY INDORSED CHECK
[1]	Payment Held Proper
[2]	Payment Held Improper
§ 16.06	CHECK NOT PROPERLY SIGNED
[1]	Generally
[2]	Where Two or More Signatures Are Necessary
§ 16.07	CHECK ON TWO-NAME, IN-TRUST, OR SIMILAR ACCOUNT
§ 16.08	PAYMENT OF CHECK ON ACCOUNT IN NAME OF MINOR
§ 16.09	MEMORANDUM ON CHECK AS BINDING PAYOR BANK
§ 16.10	CHECK DRAWN ON BLANK FORM OF ANOTHER BANK
§ 16.11	INCOMPLETE CHECK OR CHECK IMPROPERLY COMPLETED
§ 16.12	STALE CHECK
§ 16.13	POSTDATED CHECK
§ 16.14	CHECK WHERE DEPOSITOR HAS TWO OR MORE ACCOUNTS
§ 16.15	PAYMENT AFTER DEATH OR INCOMPETENCE OF DRAWER
§ 16.16	PAYMENT TO DEPOSITOR UNDER DURESS
§ 16.17	LOST OR STOLEN CHECK OR CHECK OBTAINED BY FRAUD
§ 16.18	AGREEMENT TO HONOR CHECK
§ 16.19	ORDER IN WHICH CHECKS SHOULD BE PAID
§ 16.20	LIABILITY OF BANK PAYING CHECKS FOR ANOTHER BANK
<hr/>	
<b>Chapter 17</b>	<b>Settlement for Payment and Problems of Bank Insolvency</b>
¶ 17.01	SETTLEMENT FOR "PAID" CHECKS BY REMITTANCE OR AUTHORIZATION TO CHARGE ACCOUNT: 1962 UCC ..... 17-1
¶ 17.02	MEDIUM AND TIME OF SETTLEMENT: 1990 UCC ..... 17-3
¶ 17.03	SETTLEMENT BY CASHIER'S CHECK ..... 17-4
¶ 17.04	SETTLEMENT THROUGH ACCOUNTS BETWEEN BANKS OR THROUGH CLEARINGHOUSE ..... 17-5

---

## Table of Contents

¶ 17.05	ACCOUNTABILITY .....	17-6
[1]	Bank Receiving Settlement .....	17-6
[2]	Depository Bank to Its Customer .....	17-7
¶ 17.06	DEPOSIT OF ON-US CHECK .....	17-8
¶ 17.07	PAR COLLECTIONS .....	17-9
¶ 17.08	INSOLVENCY OF COLLECTING OR PAYOR BANK .....	17-10
[1]	Generally .....	17-10
[2]	Prior to Collection .....	17-11
[3]	After Receiving Settlement .....	17-11
¶ 17.09	RIGHTS OF INTERMEDIARY COLLECTING BANK ON FAILURE OF DEPOSITARY BANK .....	17-12
¶ 17.10	RIGHTS OF DEPOSITARY BANK ON FAILURE OF INTERMEDIARY BANK .....	17-12
¶ 17.11	DEPOSIT OF CHECK WHEN BANK OFFICERS ARE AWARE OF BANK'S INSOLVENCY .....	17-13
¶ 17.12	INSOLVENCY OF PAYOR BANK .....	17-13
¶ 17.13	RECOVERY OF PAYMENT BY INSOLVENT BANK .....	17-14
¶ 17.14	APPLICABILITY OF UCC PREFERENCE PROVISIONS TO NATIONAL BANKS .....	17-14

---

## Chapter 18      **Availability of Funds for Deposited Checks: Regulation CC**

---

¶ 18.01	Availability of Funds .....	18-1
¶ 18.02	The Federal Expedited Funds Availability Act .....	18-2
¶ 18.03	Federal Reserve Regulation CC .....	18-5
¶ 18.04	Subpart B of Regulation CC .....	18-7
[1]	One-Day Funds Availability .....	18-7
[2]	Permanent Funds Availability Exceeding One Day ..	18-8
[3]	Exceptions to Funds Availability Time Limits ....	18-9
[4]	Other Subpart B Provisions of Regulation CC ....	18-12
¶ 18.05	Additional Provisions of Regulation CC .....	18-13
¶ 18.06	Deposit of On-U's Check .....	18-16
¶ 18.07	Applicability of Regulation CC Time Limits to Credit Union Share Drafts .....	18-17

---

## *Table of Contents*

### **Chapter 19**

### **Overdrafts and Check-Kiting Problems**

---

- § 19.01 NATURE OF OVERDRAFT
- § 19.02 BANK'S OBLIGATION TO ALLOW OVERDRAFT
- § 19.03 RIGHT OF BANK TO RECOVER OVERDRAFT FROM DEPOSITOR
  - [1] Generally
  - [2] Where Recovery by Bank Is Denied or Limited
- § 19.04 RIGHT OF BANK TO APPLY OTHER DEPOSITS
- § 19.05 WHO ELSE MAY BE LIABLE ON OVERDRAFT
  - [1] In General
  - [2] Liability of Joint Depositor
  - [3] Liability of Bank to Third Person on Overdraft
- § 19.06 RIGHT OF BANK TO RECOVER FROM PERSON RECEIVING PROCEEDS OF OVERDRAFT
- § 19.07 RIGHT OF BANK TO SERVICE CHARGES ON OVERDRAFT
  - [1] In General
  - [2] Service Charge by Non-Bank Organization on Return
- § 19.08 NATURE OF CHECK-KITING
- § 19.09 RIGHTS OF HOLDERS OF CHECKS INVOLVED IN KITING OPERATION
- § 19.10 WHERE HOLDER SUSPECTS POSSIBLE KITING
  - [1] Duty to Inform Others
  - [2] No Duty to Inform Others
- § 19.11 RIGHTS OF PAYOR BANK INVOLVED IN KITING OPERATION
- § 19.12 EFFECT OF BANKRUPTCY

### **Chapter 20**

### **Funds Transfers Under Uniform Commercial Code Article 4A**

---

- § 20.01 SUBJECT MATTER
- § 20.02 UCC ARTICLE 4A
  - [1] Generally
  - [2] Scope of Application
- § 20.03 ISSUANCE OF PAYMENT ORDERS; UNAUTHORIZED OR ERRONEOUS PAYMENT ORDERS
  - [1] In General
  - [2] Was a Funds Transfer Made?

---

## *Table of Contents*

§ 20.04	ACCEPTANCE OF PAYMENT ORDERS
§ 20.05	REJECTION OF PAYMENT ORDERS
§ 20.06	CANCELLATION AND AMENDMENT OF PAYMENT ORDERS
§ 20.07	EXECUTION OF PAYMENT ORDERS BY RECEIVING BANKS
§ 20.08	ERRONEOUS EXECUTION OF PAYMENT ORDERS
[1]	In General
[2]	Recovery From Beneficiary
[3]	Liability of Receiving Bank
§ 20.09	PAYMENT
[1]	In General
[2]	By Sender
[3]	By Beneficiary's Bank
[4]	By Originator
§ 20.10	VARIATION BY AGREEMENT AND EFFECT OF FUNDS-TRANSFER SYSTEM RULES
§ 20.11	CREDITOR PROCESS AND BENEFICIARY BANK SETOFF
§ 20.12	ENJOINING FUNDS TRANSFERS
§ 20.13	ORDER IN WHICH ITEMS AND PAYMENT ORDERS MAY BE PAID
§ 20.14	CHOICE OF LAW
§ 20.15	CUSTOMER'S INABILITY TO OBJECT TO PAYMENT
§ 20.16	INTEREST RATE PAID BY RECEIVING BANK
§ 20.17	RELATIONSHIP OF FEDERAL RESERVE REGULATIONS
§ 20.18	PRE-UCC ARTICLE 4A CASE LAW INVOLVING WIRE TRANSFERS
[1]	Bank Liability Not Indicated
[2]	Bank Liability Indicated
§ 20.19	GLOSSARY OF ARTICLE 4A TERMS
<b>Chapter 21</b>	<b>Encoded Checks, Electronic Funds Transfers, and Check 21 Act</b>

---

§ 21.01	THE SUBJECT MATTER
§ 21.02	COLLECTION AND PAYMENT OF ENCODED CHECKS: GENERALLY
§ 21.03	OVERENCODING THE AMOUNT OF A CHECK

---

## *Table of Contents*

[1]	Generally § 21.03[1]
[2]	Wrongful Dishonor Resulting From Overencoding
§ 21.04	UNDERENCODING THE AMOUNT OF A CHECK
§ 21.05	OTHER ENCODING ERRORS AND PROBLEMS
§ 21.06	ENCODING WARRANTIES UNDER THE 1990 UCC
§ 21.07	LIABILITY OF CHECK PRINTER FOR ENCODING ERROR
§ 21.08	EFFECT OF FRAUDULENT ENCODING OF CHECK
[1]	Generally
[2]	The USF&G Litigation
§ 21.09	ELECTRONIC FUNDS TRANSFER
§ 21.10	AUTOMATED TELLER MACHINES
[1]	In General
[2]	Regulation CC Provisions on ATMs
[3]	Unauthorized Withdrawals
§ 21.11	APPLICABILITY OF UCC TO EFTS
§ 21.12	ELECTRONIC FUND TRANSFER ACT
[1]	In General
[2]	Electronic Check Conversion Transactions
§ 21.13	ELECTRONIC BANKING FOR DEPOSITORS
§ 21.14	SUBSTITUTE CHECKS UNDER CHECK 21 ACT
§ 21.15	DEFINITIONS OF TERMS USED IN CHECK 21 ACT
§ 21.16	SUBSTITUTE CHECK WARRANTIES UNDER CHECK 21 ACT
§ 21.17	INDEMNITY FOR SUBSTITUTE CHECK UNDER CHECK 21 ACT
§ 21.18	CONSUMERS AND CHECK 21 ACT
§ 21.19	EXPEDITED RECREDIT FOR BANKS UNDER CHECK 21 ACT
§ 21.20	LIABILITY AND MEASURE OF DAMAGES UNDER CHECK 21 ACT
§ 21.21	CONSUMER AWARENESS UNDER CHECK 21 ACT
§ 21.22	OTHER PROVISIONS OF THE CHECK 21 ACT

# Table of Contents

---

## **PART V                   NONPAYMENT OF CHECKS**

---

### **Chapter 22               Dishonor and Wrongful Dishonor of Check**

---

- § 22.01                   WHAT IS DISHONOR OF A CHECK?
- § 22.02                   RETURN OF CHECK THAT IS NOT DISHONOR
- § 22.03                   INSTANCES OF DISHONOR: EFFECT OF DISHONOR
- § 22.04                   LIABILITY OF BANK FOR WRONGFUL DISHONOR
- § 22.05                   WHEN DISHONOR IS CONSIDERED WRONGFUL
- § 22.06                   EFFECT OF INSUFFICIENT BALANCE
- § 22.07                   EFFECT OF GARNISHMENT OF ACCOUNT
- § 22.08                   EFFECT OF BANK CLOSING ACCOUNT
- § 22.09                   DISHONOR OCCASIONED BY SETOFF AGAINST  
ACCOUNT
  
- § 22.10                   OTHER INSTANCES WHERE DISHONOR MAY NOT  
BE WRONGFUL
  
- § 22.11                   WRONGFUL DISHONOR OF MONEY ORDER
- § 22.12                   WHO MAY RECOVER FOR WRONGFUL DISHONOR:  
THE CUSTOMER
  
- § 22.13                   LIABILITY TO THE PAYEE OR HOLDER
- § 22.14                   DAMAGES FOR WRONGFUL DISHONOR BY MISTAKE
- § 22.15                   DAMAGES FOR INTENTIONAL DISHONOR
- § 22.16                   DAMAGES FOR INJURY OR MENTAL DISTRESS
- § 22.17                   PUNITIVE DAMAGES
- § 22.18                   DAMAGES FOR ARREST OF DEPOSITOR FOLLOWING  
WRONGFUL DISHONOR

---

### **Chapter 23               Notice of Dishonor and Protest of Unpaid Check**

---

- § 23.01                   GENERAL PROBLEMS ON DISHONOR OF CHECK
- § 23.02                   NECESSITY OF NOTICE OF DISHONOR TO HOLD  
DRAWER
  
- § 23.03                   NECESSITY OF NOTICE OF DISHONOR TO HOLD  
INDORSER
  
- § 23.04                   WHEN NOTICE OF DISHONOR MAY BE DELAYED OR  
EXCUSED

---

## ***Table of Contents***

§ 23.05	<b>TIME AND MEDIUM OF GIVING NOTICE OF DISHONOR</b>
§ 23.06	<b>WHEN NOTICE IS TIMELY: EFFECT OF DELAY</b>
§ 23.07	<b>LIABILITY OF FEDERAL RESERVE BANK FOR DELAY IN GIVING NOTICE OF DISHONOR</b>
§ 23.08	<b>FORM OF NOTICE OF DISHONOR</b>
[1]	<b>In General</b>
[2]	<b>Effect of “Refer to Maker”</b>
[3]	<b>Sufficiency of Oral Notice</b>
[4]	<b>Wired or Telephoned Notice of Nonpayment</b>
[5]	<b>Where Bank May Be Liable</b>
§ 23.09	<b>TO WHOM AND WHERE NOTICE OF DISHONOR SHOULD BE GIVEN</b>
§ 23.10	<b>EVIDENCE OF DISHONOR AND OF NOTICE OF DISHONOR</b>
§ 23.11	<b>PROTEST OF DISHONOR</b>
[1]	<b>Generally</b>
[2]	<b>Who May Make Protest</b>
[3]	<b>When Protest Is Required</b>
<b>Chapter 24</b>	<b>Return, Chargeback, and Delayed Return of Unpaid Check</b>
§ 24.01	<b>RETURN OF UNPAID CHECK AND CHARGEBACK BY COLLECTING BANK: GENERALLY</b>
§ 24.02	<b>DIRECT RETURN OF UNPAID CHECK: DIRECT NOTIFICATION</b>
§ 24.03	<b>WHERE CHARGEBACK IS PERMITTED</b>
§ 24.04	<b>WHERE DELAY RESULTS IN NO LOSS TO DEPOSITOR</b>
§ 24.05	<b>WHERE CHARGEBACK IS NOT PERMITTED</b>
§ 24.06	<b>CHARGEBACK OF ITEM PAYABLE IN FOREIGN CURRENCY</b>
§ 24.07	<b>RIGHT TO CHARGE BACK AMOUNT OF LOST CHECK</b>
§ 24.08	<b>RE-PRESENTMENT OF UNPAID CHECK</b>
§ 24.09	<b>DELAYED RETURN BY PAYOR BANK: GENERALLY</b>
§ 24.10	<b>MEASURE OF TIME LIMITS FOR RETURN</b>
[1]	<b>Generally</b>
[2]	<b>When Check Is First Handled at Processing Center</b>
§ 24.11	<b>PAYOR BANK LIABILITY FOR RETENTION BEYOND TIME LIMITS</b>

---

## *Table of Contents*

[1]	In General
[2]	Payor Bank Liability to an Assignee for Delayed Return of Check
§ 24.12	EXCUSED DELAY BY CIRCUMSTANCES BEYOND BANK'S CONTROL: COMPUTER FAILURE
§ 24.13	EFFECT OF FEDERAL RESERVE REGULATIONS AND OPERATING CIRCULARS
§ 24.14	EFFECT OF CLEARINGHOUSE RULES OR OTHER BANK AGREEMENTS
§ 24.15	EFFECT OF AGREEMENT FOR PARTICULAR CHECK
§ 24.16	WHERE DELAYED RETURN IS OTHERWISE EXCUSED
§ 24.17	WHERE DELAY FOLLOWS SECOND PRESENTMENT OF CHECK
§ 24.18	DELAYED RETURN OF MISSENT ITEM
§ 24.19	DELAYED RETURN OF POSTDATED CHECK
§ 24.20	DELAYED RETURN OF DOCUMENTARY DRAFT

---

### **Chapter 25**                      **Collection and Return of Unpaid Check Under Regulation CC**

---

¶ 25.01	RETURN OF UNPAID CHECK AND CHARGEBACK .....	25-1
¶ 25.02	EXPEDITIOUS RETURN OF CHECK .....	25-2
[1]	Generally .....	25-2
[2]	Supplementing Provisions .....	25-5
¶ 25.03	DEPOSITARY BANK'S RESPONSIBILITY FOR RETURNED CHECKS .....	25-7
¶ 25.04	DIRECT RETURN; DIRECT NOTIFICATION ....	25-8
¶ 25.05	WARRANTIES BY BANKS ON CHECK RETURN .....	25-11
¶ 25.06	INDORSEMENT REQUIREMENTS OF REGULATION CC .....	25-13
¶ 25.07	PRESENTMENT .....	25-16
¶ 25.08	LIABILITY UNDER COLLECTION AND RETURN PROVISIONS .....	25-20
¶ 25.09	VARIATION OF REGULATION CC BY AGREEMENT .....	25-22
¶ 25.10	OTHER COLLECTION AND RETURN PROVISIONS OF REGULATION CC .....	25-23

---

## *Table of Contents*

Figure 25-1: Federal Reserve Regulation CC, Two-Day/Four-Day Test for Return of Check ..... 25-25

---

### **Chapter 26 Stopping Payment: Subrogation of Bank**

---

§ 26.01	<b>RIGHT OF DRAWER TO STOP PAYMENT</b>
[1]	<b>In General</b>
[2]	<b>Relevant State UCC Provisions</b>
[3]	<b>Case Law</b>
[4]	<b>Payment Over Stop Order</b>
§ 26.02	<b>RIGHT OF PERSON OTHER THAN DRAWER TO STOP PAYMENT</b>
§ 26.03	<b>WHEN STOP-PAYMENT ORDER COMES TOO LATE</b>
§ 26.04	<b>STOP ORDER NOT EFFECTIVE UNLESS BANK HAS TIME TO ACT ON IT</b>
§ 26.05	<b>DURATION OF STOP-PAYMENT ORDER</b>
§ 26.06	<b>FORM AND SUFFICIENCY OF STOP-PAYMENT ORDER</b>
§ 26.07	<b>ORAL STOP-PAYMENT ORDER</b>
§ 26.08	<b>CANCELLATION OF STOP-PAYMENT ORDER</b>
§ 26.09	<b>STOPPING PAYMENT OF CERTIFIED CHECK</b>
§ 26.10	<b>STOPPING PAYMENT OF CASHIER'S CHECK BY PURCHASER OR REMITTER</b>
§ 26.11	<b>WHEN BANK ASSERTS ITS OWN DEFENSE AGAINST ITS CASHIER'S CHECK</b>
§ 26.12	<b>WHEN PAYMENT MAY BE STOPPED ON CASHIER'S CHECK</b>
§ 26.13	<b>STOPPING PAYMENT OF BANK OBLIGATION</b>
[1]	<b>In General</b>
[2]	<b>Pre-UCC and 1962 UCC Provisions on Teller's Checks</b>
[3]	<b>Decisions Under the 1990 UCC</b>
§ 26.14	<b>STOPPING PAYMENT OF MONEY ORDER</b>
[1]	<b>Personal Money Order</b>
[2]	<b>Bank Money Order</b>
§ 26.15	<b>STOPPING PAYMENT OF INSURANCE DRAFT</b>
§ 26.16	<b>STOPPING PAYMENT OF TRAVELER'S CHECK</b>
§ 26.17	<b>EFFECT ON DRAWER'S LIABILITY OF STOPPING PAYMENT</b>
§ 26.18	<b>AGREEMENT RELEASING BANK FROM LIABILITY FOR PAYING STOPPED CHECK</b>

---

## ***Table of Contents***

§ 26.19	<b>BURDEN OF PROOF OF LOSS FROM PAYMENT OF STOPPED CHECK</b>
§ 26.20	<b>BANK'S RIGHT TO SUBROGATION ON IMPROPER PAYMENT</b>
[1]	<b>Subrogation Against Drawer: Right to Charge Drawer's Account</b>
[2]	<b>Subrogation Against Third Person</b>
[3]	<b>Subrogation Against Third Person Not Permitted</b>

---

## **PART VI                    ALTERATION AND FORGERY**

---

### **Chapter 27                Altered Checks**

---

§ 27.01	<b>Material Alteration Under 1962 Ucc and Alteration Under 1990 Ucc</b>
§ 27.02	<b>Examples of Material Alteration or Change of Obligation</b>
§ 27.03	<b>Alterations that are not Material or that Do not Change Obligation</b>
§ 27.04	<b>Burden of Proof</b>
§ 27.05	<b>Effect of Material or Fraudulent Alteration</b>
§ 27.06	<b>Rights of Holder In Due Course of Altered Check</b>
§ 27.07	<b>Liability of Payor Bank Paying Altered Check</b>
§ 27.08	<b>Negligence Contributing to Alteration</b>
[1]	<b>In General</b>
[2]	<b>The Young V. Grote Rule</b>
[3]	<b>Application of Rule</b>
[4]	<b>Delay In Discovering or Giving Notice of Alteration</b>
§ 27.09	<b>Right of Recovery on Altered Check</b>
[1]	<b>Recovery By Payor Bank</b>
[2]	<b>Effect of Negligence on Recovery By Payor Bank</b>
[3]	<b>Recovery By Drawer Directly From Collecting Bank</b>
§ 27.10	<b>Rights of Bank Collecting Altered Check</b>

---

### **Chapter 28                Forged Checks**

---

§ 28.01	<b>Forgery and Checks: In General</b>
§ 28.02	<b>What Constitutes Forgery</b>
[1]	<b>In General</b>

---

## ***Table of Contents***

[2]	Bank Customer Agreements on Detecting Forgery or Alteration
§ 28.03	Counterfeit Checks
§ 28.04	Preauthorized Drafts
§ 28.05	Liability of Drawee or Payor Bank Paying Forged Check
[1]	In General
[2]	Application of Rule
[3]	Damages Recoverable
§ 28.06	Liability Where Bank-Depositor Relationship Does not Exist
§ 28.07	Effect of Negligence
[1]	Negligence of Depositor
[2]	When Bank is Also Negligent
[3]	Negligence of Banking Organization as Drawer
§ 28.08	Preclusion From Claiming Forgery
§ 28.09	Ratification of Forgery
§ 28.10	Effect of Delay In Making Claim: Statute of Limitations
§ 28.11	Right to Recover Payment of Forged Check
[1]	Recovery By Drawee or Payor Bank: the Price V. Neal Rule
[2]	Recovery of Payment of Forged Cashier's Check
[3]	Recovery From Forger
[4]	Recovery From Person Receiving Payment With Knowledge of Forgery
[5]	Recovery Where Person Receiving Payment is Negligent
[6]	Recovery By Person Whose Name is Forged Directly From Collecting Bank: the Perini Case
[7]	Other Cases of Direct Claims Against A Collecting Bank
[8]	Right of Drawee or Payor Bank to Recover In Double Forgery
[9]	Recovery From Payee By Person Whose Name is Forged
§ 28.12	Liability as Between Depository Bank and Depositor
§ 28.13	Forged Government Checks
§ 28.14	Burden of Proof of Forgery of Signature or Indorsement

---

## **Chapter 29 Forged Indorsements on Checks**

§ 29.01	Forged Indorsements: Generally
---------	--------------------------------

---

## ***Table of Contents***

§ 29.02	<b>Liability of Drawee or Payor Bank Paying Check With Forged Indorsement</b>
§ 29.03	<b>Liability on Cashier's Check With Forged Indorsement</b>
§ 29.04	<b>Liability on Forged Countersignature on Traveler's Check</b>
§ 29.05	<b>Where Payor Bank is not Liable</b>
[1]	<b>Forged Indorsement not Necessary to Title</b>
[2]	<b>Where No Loss Results From Payment</b>
[3]	<b>Where the Check Pays the Debt to the Payee</b>
§ 29.06	<b>Preclusion From Claim on Forged Indorsement</b>
§ 29.07	<b>Ratification of Forged Indorsement</b>
§ 29.08	<b>Effect of Drawer's Negligence: Generally</b>
§ 29.09	<b>What Degree of Negligence Bars Recovery</b>
[1]	<b>In General</b>
[2]	<b>Where Drawer Follows Careless Office Procedures</b>
[3]	<b>Sending Check to Forger or Otherwise Dealing With Forger</b>
[4]	<b>Sending Check to Person With Same Name as Payee</b>
[5]	<b>Negligence In Issuing Check on Unauthorized Savings Withdrawal Slip</b>
[6]	<b>Failure of Bank to Observe Reasonable Commercial Standards</b>
§ 29.10	<b>Right of Drawee or Payor Bank to Recover Payment on Forged Indorsement</b>
[1]	<b>In General</b>
[2]	<b>Application of Rule Permitting Recovery</b>
[3]	<b>Where Recovery is Denied</b>
[4]	<b>Right of Depository Bank to Recover on Forged Indorsement</b>
§ 29.11	<b>Forged Indorsements and Government Checks</b>
§ 29.12	<b>Vouching In Collecting Bank as Defendant</b>
§ 29.13	<b>Effect of Delay In Making Claim: Statute of Limitations</b>
§ 29.14	<b>Effect of Negligence of Drawer or of Payor Bank on Payor Bank's Right to Recover</b>
§ 29.15	<b>Right of Bank to Recover From Negligent Drawer</b>
§ 29.16	<b>Direct Recovery By Drawer From Collecting Bank or Other Person Taking Check With Forged Indorsement</b>
[1]	<b>In General</b>
[2]	<b>Where Direct Recovery is Denied</b>

---

## ***Table of Contents***

[3]	Where Direct Recovery is Permitted In Particular Instances
[4]	Remitter Recovery on Forged Indorsement of Cashier's Check
§ 29.17	Recovery By Bank Collecting on Forged Indorsement From Prior Party
§ 29.18	Recovery From Person Whose Name is Forged or From Forger
<b>Chapter 30</b>	<b>Rights of Payee or Third Person Where Indorsement is Forged</b>
§ 30.01	Rights of Payee Whose Indorsement is Forged Against Drawer
§ 30.02	Rights of Payee Whose Indorsement is Forged Against Drawee or Payor Bank
[1]	Generally
[2]	Recovery By Joint Payee
§ 30.03	Rights of Payee Whose Indorsement is Forged Against Collecting Bank or Other Person Taking Under Forged Indorsement
[1]	In General
[2]	When Payee May Recover
[3]	Depository or Collecting Bank Liability Where It Does not Observe Reasonable Commercial Standards
[4]	Recovery By Joint Payee
[5]	Effect of Nondelivery
[6]	Amount of Recovery
[7]	Effect of Bank Negligence
§ 30.04	When Recovery is Denied
[1]	Reasonable Commercial Standards Observed
[2]	Other Grounds for Denying Recovery
§ 30.05	Effect of Payee's Negligence
[1]	Recovery By Payee Permitted
[2]	Recovery By Payee Denied
§ 30.06	Employer's Responsibility for Fraudulent Indorsement By Employee Under 1990 Ucc
[1]	In General
[2]	Decisions Under Fraudulent Indorsement Rule of 1990 Ucc
§ 30.07	Payee's Ratification of Forger

---

## *Table of Contents*

[1]	Generally
[2]	When Ratification Does not Take Place
§ 30.08	Rights of Payee Whose Indorsement is Forged on Government Check
§ 30.09	Forged Indorsement on Money Order
§ 30.10	Rights of Third Person Against Payor Bank, Collecting Bank, or Other Person Taking Check Under Forged Indorsement
§ 30.11	Rights of Person Taking Under Forged Indorsement
§ 30.12	Statute of Limitations In Action By Payee
[1]	Under the 1962 Ucc
[2]	Under the 1990 Ucc

---

### **Chapter 31                    The Impostor and Fictitious-Payee Rules**

---

§ 31.01	<b>WHEN A FORGED INDORSEMENT IS NOT A FORGED INDORSEMENT</b>
§ 31.02	<b>IMPOSTOR RULE</b>
[1]	In General
[2]	Where the Impostor Rule Does Not Apply
[3]	Where Check is Delivered to One Wrongfully Posing as Agent
[4]	Rights of Holder to Whom Impostor Transfers Check
[5]	Government Checks
§ 31.03	<b>TRADITIONAL FICTITIOUS-PAYEE RULE: WHERE SIGNER INTENDS PAYEE TO HAVE NO INTEREST IN CHECK</b>
[1]	In General
[2]	Application of Traditional Rule
[3]	Where Traditional Rule Does Not Apply
[4]	Application of Rule Where There Are Two or More Signers of Check
§ 31.04	<b>EXPANDED RULE: WHERE AGENT SUPPLIES NAME OF PAYEE INTENDED TO HAVE NO INTEREST IN CHECK</b>
[1]	In General
[2]	Expanded Rule Under 1990 UCC
[3]	Application of Expanded Rule
[4]	Where Expanded Rule Does Not Apply

---

## ***Table of Contents***

§ 31.05	<b>IMPOSTOR AND FICTITIOUS-PAYEE RULES WHERE DRAWER'S SIGNATURE IS FORGED</b>
§ 31.06	<b>EFFECT OF FAILURE TO INDORSE OR OF IRREGULAR INDORSEMENT</b>
§ 31.07	<b>EFFECT OF BANK NEGLIGENCE: BANK NOT LIABLE</b>
§ 31.08	<b>BANK LIABILITY BECAUSE OF NEGLIGENCE OR MISCONDUCT</b>
[1]	<b>In General</b>
[2]	<b>Comparative Negligence in a Fictitious-Payee Situation</b>
§ 31.09	<b>WHERE AGENT OF DRAWER DISHONESTLY PROCURES ISSUANCE OF CHECK TO GENUINE PAYEE WHO INDORSES IT</b>
§ 31.10	<b>RECOVERY BY DRAWEE OR PAYOR BANK IN IMPOSTOR OR FICTITIOUS-PAYEE SITUATION</b>
§ 31.11	<b>FICTITIOUS-PAYEE RULE AND GOVERNMENT CHECKS</b>
§ 31.12	<b>STATUTE OF LIMITATIONS</b>
<b>Chapter 32</b>	<b>Examination of Bank Statements and Canceled Checks</b>
§ 32.01	<b>DEPOSITOR'S DUTY TO DISCOVER AND REPORT FORGERY OR ALTERATION: IN GENERAL</b>
[1]	<b>In General</b>
[2]	<b>When Requirement Applies</b>
[3]	<b>When Requirement Does not Apply</b>
§ 32.02	<b>MAKING STATEMENTS AVAILABLE TO CUSTOMERS: EFFECT OF CHECK TRUNCATION</b>
§ 32.03	<b>DEPOSITOR'S DUTY REGARDING FORGED INDORSEMENTS</b>
§ 32.04	<b>WHEN CUSTOMER ENTRUSTS EXAMINATION TO DISHONEST EMPLOYEE</b>
§ 32.05	<b>DEPOSITOR'S DUTY TO REPORT FORGERY OR ALTERATION WHEN DISCOVERED</b>
[1]	<b>In General</b>
[2]	<b>Form and Manner of Notice</b>
[3]	<b>Bank Rule and Account Agreements Requiring Notice Within Specified Time</b>
§ 32.06	<b>CUSTOMER'S NEGLIGENCE OR DELAY IN DISCOVERING OR REPORTING FORGERY OR ALTERATION</b>

---

## *Table of Contents*

[1]	Effect In General
[2]	Recovery When Bank Pays Subsequent Forged or Altered Checks
§ 32.07	<b>BANK'S NEGLIGENCE WHERE DEPOSITOR FAILS DUTY TO EXAMINE BANK STATEMENTS</b>
[1]	In General
[2]	Instances of Bank Negligence
[3]	When Bank is not Negligent
§ 32.08	<b>GOVERNMENT'S NEGLIGENCE IN DISCOVERING OR REPORTING FORGERY</b>
§ 32.09	<b>ABSOLUTE PERIODS FOR GIVING NOTICE</b>
[1]	1962 Ucc
[2]	1990 Ucc
[3]	When Absolute Periods Do not Apply
[4]	Effect of Depositor's Death on Absolute Time Limits
[5]	Effect of Check 21 Act on Uniform Commercial Code
§ 32.10	<b>EFFECT OF BANK'S NEGLIGENCE ON RUNNING OF ABSOLUTE NOTICE PERIOD</b>
[1]	In General
[2]	When Checks are Missing Required Signature
[3]	When Checks are Missing Indorsements
[4]	When Checks are Altered and have Forged Indorsements
§ 32.11	<b>AVAILABILITY OF UCC PROVISION AS DEFENSE TO COLLECTING BANK</b>
§ 32.12	<b>OTHER STATUTES THAT MAY BAR CLAIM FOR FORGERY OR ALTERATION</b>
§ 32.13	<b>STATUTE OF LIMITATIONS</b>

---

## **PART VII WHAT LAW GOVERNS**

### **Chapter 33 Conflict of Laws**

---

¶ 33.01	General Principles . . . . .	33-1
¶ 33.02	Conflict of Laws Provisions of the UCC . . . . .	33-2
¶ 33.03	The Significant-Contact or Appropriate-Relation Test . . . . .	33-3
¶ 33.04	Law of Place of Payment . . . . .	33-6
¶ 33.05	Law of Place Where Bank is Located . . . . .	33-6
¶ 33.06	Application of Long-Arm Statutes . . . . .	33-12.1
¶ 33.07	Miscellaneous Theories or Applications . . . . .	33-16

---

## *Table of Contents*

¶ 33.08	Negotiability and Form .....	33-17
¶ 33.09	Delivery and Incomplete Checks .....	33-17
¶ 33.10	Value and Consideration .....	33-19
¶ 33.11	Indorsement and Transfer .....	33-19
¶ 33.12	Holder in Due Course .....	33-21
¶ 33.13	Certification .....	33-22
¶ 33.14	Deposit and Transfer of Checks for Collection .....	33-23
¶ 33.15	Presentment for Payment .....	33-23
¶ 33.16	Payment and Settlement .....	33-24
¶ 33.17	Overdrafts .....	33-24
¶ 33.18	Dishonor and Return of Unpaid Checks .....	33-25
¶ 33.19	Stopping Payment .....	33-26
¶ 33.20	Altered Checks .....	33-27
¶ 33.21	Forged Checks and Forged Indorsements .....	33-28

---

### **Table of UCC Sections**

---

### **Table of Disposition of 1962 Article 3 Sections**

---

### **Table of Antecedents of 1990 Article 3 Sections**

---

### **Table of Cases**

---

### **Index**

---