

FILING ON A RETURNED CHECK

**TONY GILBREATH
JUSTICE OF THE PEACE, PCT. 1
WOOD COUNTY, TEXAS**

These instructions are a broad interpretation of the Laws that apply to the Justice Court. Any Legal Questions or Legal Interpretations should be based upon your own research of the matter or the advice of your attorney.

PROCEDURE WHEN A CHECK IS RETURNED

THERE ARE CERTAIN PROCEDURES YOU MUST FOLLOW BEFORE THIS OFFICE WILL ACCEPT A RETURNED CHECK FOR PROSECUTION:

The check must be presented to the Bank for payment, even if you know it will not be honored and stamped by the bank as to the reason it was returned.

You must send written notification to the check writer informing him or her of the reason the check was not honored. The written notice must be sent certified mail with return receipt requested. The following sample letter sets out the information which must be included:

Dear Mr. Doe:

Your check #000 dated September 16, 2006, in the amount of \$00.00 given for the stereo you purchased on the same date has been returned by the State Bank marked "insufficient funds" (or other reason marked on the check by the bank).

You have ten (10) days from receipt of this letter to bring payment in cash, cashier's check, or money order for the amount of the check, plus a \$_____ charge for handling. If you do not respond, this matter will turned over to the Justice of the Peace's office for collection.

Sincerely,

Be sure to keep a copy of this letter. If after 15 days the check has not been paid, you must personally bring it to this office and furnish the following:

1. The original check with the bank flag or notation with the reason it was not honored;
2. The signed receipt from the certified letter or the correspondence unopened, marked refused or unclaimed;
3. A copy of your letter;
4. The name, address and phone number of the person who accepted the check and who can identify the maker;
5. Specific identification of maker such as driver's license number, date of birth, and physical description. (It will be necessary for you to supply this information on a form when you file your case in our office.)
6. Understand that if you do not have a driver's license number and or a date of birth that the case cannot be entered into a warrant data bank. If the writer claims that they are not the person listed on the check, there is no recourse.

PERSONALLY APPEARED before me, the undersigned authority, the Affiant, who after being by me duly sworn, deposed and said Affiant has good reason to believe and does believe that one _____ Hereinafter styled Defendant, on or about the ____ day of _____, 20__ in the County of Wood and State of Texas, did unlawfully and knowingly within Justice of the Peace Precinct Three of said county and state, then and there issue and pass to _____ an agent of _____, a third party holder in due course who negotiated the check for the payment of money being of the tenor following:

INFORMATION ON PERSON PRESENTING CHECK:

NAME: _____ **PHONE:** _____

ADDRESS: _____

BUSINESS PHONE: _____ **SEX:** _____ **RACE:** _____ **HT:** _____ **WT:** _____ **EYES:** _____

DRIVER'S LICENSE # _____ **DATE OF BIRTH:** _____

CHECK # _____ **DATED:** _____ **AMOUNT OF CHECK:** _____ + _____ = _____
Merchant Fee

PAYABLE TO THE ORDER OF: _____ **SIGNED BY:** _____

WHY CHECK RETURNED: (NSF) _____ (ACCT. CLOSED) _____ (NO ACCT.) _____ (OTHER) _____

BANK NAME: _____ **ACCOUNT #** _____

DATE CERTIFIED LETTER SENT: _____ **DATE SIGNED FOR:** _____

DATE CERTIFIED LETTER RETURNED: _____

MERCHANDISE/SERVICE STOLEN: _____ -

And the said Defendant knew at the time of the issuance and passing of the aforesaid check that he did not have sufficient funds on deposit with the bank on which said check was drawn for the payment in full of the check, as well as all other checks and orders then outstanding. More than 10 days have passed since the Defendant received notice of the bank's refusal to pay the check and Defendant has not paid the payee in full.

Affiant has knowledge of the above facts by reason of my investigation of the records of the aforementioned affiant, and examination of such check that was not honored by the bank and on its face such check, through markings placed on the check by the bank was dishonored and returned, against the peace and dignity of the State.

SWORN TO AND SUBSCRIBED before me this the _____ day of _____, 20_____.

AFFIANT PRINTED NAME

BUSINESS NAME

ADDRESS

TOWN & ZIP

PHONE

AFFIANT SIGNATURE

NOTARY PUBLIC OR CLERK OF THE COURT
IN AND FOR THE STATE OF TEXAS

MY COMMISSION EXPIRES: _____

Date: _____

To: _____

This letter gives you official notice in accordance with Texas Penal Code that the check drawn on your account at the _____ Bank/Credit Union, in the amount of \$ _____, dated _____ has been returned to me by this bank for the below marked reason:

_____ This is a demand for payment in full for a check or order not paid because of **lack of funds** or **insufficient funds**. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution.

_____ This is a demand for a check or order not paid because of **stop payment** placed on the check or order. If you fail to make payment in full within 10 days or you do not return the property 10 days after the date of receipt of this notice, the failure to pay or return of the property creates a presumption for committing an offense and this matter may be referred for criminal prosecution.

As authorized by Art. 9022 Vernon's Civil Statutes you owe an additional \$ _____ processing fee. **TOTAL AMOUNT DUE: \$ _____.**

Very truly yours,

Mail Restitution to: _____
