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What to do with NSF Checks

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For any business, getting a notice from your bank that states a check that you deposited from a customer was returned NSF (non-sufficient funds) is extremely frustrating. It can be especially frustrating for a small business where you relied on that NFS check and wrote checks against those funds to pay your own bills. Not only did the check bounce back as NSF, there is quite often a fee your own bank charges you for the work of having to deal with the NSF check. I've had a number of calls lately from our clients with frustrating stories on NSF checks and asking what can be done.

There are some practical suggestions with regard to NSF checks which we put into practice at our own firm. We recommend you cash your checks as soon as you receive them. If one bounces, call the customer or writer of the check and try to arrange that they cover the check immediately with cash or a money order. If they tell you to run the check a second time, do so as fast as you can. The goal is to get paid, so you want to be aggressive on these.

It is a crime to write an NSF check with the intent to defraud (MCL 750.131). That being said, most police departments do not aggressively pursue NSF checks on behalf of their citizens or businesses. While a few departments will get involved with NSF checks, many suggest you pursue your civil remedies rather than criminal options.

Michigan has a law which provides a civil remedy, and it is found at MCL 600.2952. You are first required to send out what is called a "statutory notice". The statute provides the language you need to use. It essentially provides 30 days for the person who wrote the check to remedy the problem. If they do not, you are able to sue the person who wrote the check for three times the amount of the check, plus \$250.00. Therefore, if you received a NSF check for \$1,000.00, after you've sent the 30-day statutory notice and the person who wrote the check did not make good on it, you can then sue them for \$3,250.00. While it's nice to be able to sue for three times more than the original check was written for, you still have the time loss, the cost of paying an attorney to pursue your case, and you still have to hope the party you're suing is collectible.

If you are running into problems with bad checks or collections in general, give me a call. I would be happy to help.