PUBLICATION UPDATE

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BRADY ON BANK CHECKS AND FUNDS TRANSFERS

Publication 4720 Release 38 May 2025

HIGHLIGHTS

- This release of Brady on Bank Checks and Funds Transfers contains updates and revisions to provide the current status of the law. These are some chapters with highlights in this release.

Chapter 17

Additional analysis of recent court decisions concerning settlement for payment and problems of bank insolvency.

Chapter 18

A recent Alabama case states that in the case of an altered check under the UCC, the banks that received the check during forward collection, including the paying bank, have warranty claims against the banks that transferred the check (e.g., a collecting bank or the depositary bank); and in the case of a forged check, the UCC places the responsibility on the paying bank for identifying the forgery. As such, the depositary bank typically bears the loss related to an altered check, whereas the paying bank bears the loss related to a forged check.

The Ninth Circuit said in a recent decision that it has read the statutory term "inconsistent" in the preemption context to refer to contradictory state law requirements, or to requirements that stand as obstacles to federal objectives.

A 2024 Maryland case concerned a lending company that alleged that a bank violated the EFAA by failing to provide notice that the July 7th check

was returned on July 17th. In support of this claim, it cited to 12 C.F.R. § 229.33(h), which provides that a bank that has received a returned check must "send or give notice to its customer of the facts by midnight of the banking day following the banking day on which it received the returned check, notice of nonpayment, or notice of recovery, or within a longer reasonable time."

The Sixth Circuit held in a 2025 case that a bank had "reasonable cause" to delay large deposit, especially in accounts with "repeated overdrafts" or where the bank had "reasonable cause" to believe the check was uncollectible; bank's concern not arbitrary, where account holder had a history of overdrawing her account and had never deposited such a large check before.

Chapter 21

A recent decision from the federal district court of New Jersey held that under the New Jersey law, if a "passbook" is presented to a bank that has no record of the applicable account and no record of payment of the account to the State of New Jersey (pursuant to any applicable escheat or unclaimed property act), three rebuttable presumptions apply.

A decision from the Northern District of New York explained that pursuant to N.Y. UCC § 3-407, an alteration is material if changes the contract of any party thereto in any respect.

Chapter 22

In a 2024 case from the federal district court of New Jersey, a plaintiff claimed that when bank froze its account, it violated § 4-402 insofar as it "wrongfully dishonored the funds" contained therein.

Chapter 23

A 2025 decision held that the regulatory language cited by a bank does not cover the transfers at issue, as Payment Orders are "specific requests" for the transfer of consumer funds.

In a 2025 case from the Southern District of New York, the court stated while the 1990 version of Regulation J's official commentary contained that evidence, the original version of Regulation J also contained definitions of terms that would suggest a narrower scope of subsection (7)(B) more in line with state attorney general's interpretation.

Chapter 32

A recent decision found that pursuant to Alabama's commercial code, a bank may charge a customer's account only when an item is deemed "properly payable." As such, the court held that by negative implication, Ala. Code § 7-4-401 imposes liability on a drawee bank that charges a customer's account for items not properly payable.

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