



# NEW JERSEY CHECK FRAUD & FORGERY GUIDE

*What To Do If You're  
Charged With Forgery*

CARL SPECTOR

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Check fraud is not something we think about every day. We may not necessarily know what would get you charged with it. If you are facing penalties for check fraud, you may be feeling confused, frustrated, and scared. Our New Jersey check fraud lawyer is here to help fight for your justice. You should not have to face

penalties for a simple error. We want to help you fight these charges.

## PLEA NEGOTIATIONS: YOU MAY NOT BE SENTENCED TO THE ORIGINAL CHARGE

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Are you worried about having a New Jersey check fraud criminal record? Number one, a plea and a sentence are two separate events. While they occur at the same time ordinarily, they are two separate events. When someone calls me up and says, “All I did was pay a fine” on whatever they’re talking to me about was their past record, that’s the sentence. The question is what was the plea to?

What did you actually plead guilty to, if anything, that put you in a position where the judge needed to extract money from you as a fine? The plea and the sentence are two separate events. Bottom of Form

They’re two separate things that cast light on what occurred during the event that you entered into the plea. For instance, someone’s sentence is a year in jail. We all understand what a year in jail is. If somebody’s sentence was five years’ probation, we all understand that probation is a penalty.

If someone was sentenced to a fine, we all understand that that’s a penalty, but it doesn’t define what the plea was to. For example, if someone were to plead guilty in front of a judge to a disorderly conduct, which is a disorderly person’s offense under the New Jersey statute 2C:33-2, and are sentenced to a fine, the

fact that they were sentenced to a fine doesn't really define what they had pled guilty to.

Let's just say that in the course of a case an individual was charged with some type of theft and it was prosecuted in the municipal court or even in the Superior Court of the State of New Jersey, and they wound up with a plea, a plea deal, a plea bargain, where they pled guilty to a lesser offense of disorderly conduct, NJSA 2C:33-2.

That is a disorderly person's offense and they would be sentenced based on what they pled guilty to, not what they were arrested for or charged with. If the original charge was a theft, let's say in the fourth degree. The municipal prosecutor or the county prosecutor allowed a plea bargain to a disorderly person's offense, so that's the plea.

## FIGHT TO PROVE YOUR INNOCENCE

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Oftentimes I find that people may not be aware that the check they wrote was no good, or perhaps there was another check that cleared in between, which left them with a lower balance than they thought. I've also seen checks being mishandled by the person who received it, and instead of actually tendering the check to the bank, they may simply call the bank and get the wrong information from the bank, which then becomes their basis for bringing the charge, and may not be accurate at all.

It appears that there are some communication problems when people open up their bank accounts online as opposed to going into a physical bank location and opening their accounts in person. In certain instances, the bank is not aware of the online banking account at all. Sometimes it becomes an issue where it's very hard for the bank in certain situations to line up the check with the account that was established online. As an experienced New Jersey check fraud lawyer, I have seen all of these scenarios, and more, and will gladly fight to prove your innocence against unintentional check fraud in New Jersey.

# EXPUNGEMENT IS A POSSIBILITY

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In most cases, a plea or a conviction can be expunged after a certain waiting period. There are a variety of waiting periods, and I'll set them forth as follows. Expungements are a whole separate area of the law. Number one, if the case is dismissed, your expungement can be filed immediately. As an experienced New Jersey Check Fraud Lawyer, I would suggest that you seek out the assistance of an attorney for any expungement. If you pled guilty to a municipal ordinance, which is a town violation, the waiting period is two years, and for any other expungement, you should seek counsel to find out the exact waiting period for any other offense that you have pled guilty to.

## FREQUENTLY ASKED CHECK FRAUD QUESTIONS

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### *What Does It Mean to Pass A Bad Check, and When Will A Prosecutor Pursue Criminal Charges?*

As an experienced New Jersey check fraud lawyer, I receive a large call volume from people with questions regarding passing bad checks. I saw this concept of somebody being charged with passing a bad check and then being charged with a theft a lot as a prosecutor as well. I tell clients that very often, a case would start in the municipal court and depending on the severity, it may go up to the Superior Court for the county prosecutor to review. Depending on the facts of the case and the amount of the check in question, the case would more than likely be sent back down to the municipal court.



## *Are Most Cases of Bad Check Passing Just Misunderstandings?*

In my experience as a dedicated New Jersey check fraud lawyer, I find that many cases of check fraud do not have much merit. Oftentimes, the person who is bringing the charges is trying to use the court as a collection agency, which I have seen to be somewhat effective but perhaps misguided. It appears that a great number of these cases are not crimes at all.

In some cases, people would give a check to an individual for some product or service and due to either a misunderstanding or some other miscommunication, the check is not tendered on time, which leads to the check being returned. Other times, there is a simple misunderstanding between the person who wrote the check and the person who tried to cash it. As an experienced New Jersey check fraud lawyer, I'm starting to see an uptick in the amount of these types of cases, which I am happy to defend.

## *What Are Common Reasons for Unintended Check Fraud?*

I think one of the biggest misconceptions about check fraud is that to some extent, depending on the factual background of the situation, it's not a crime at all. I think that the people who are receiving these checks are presuming that they can use the municipal court and in some cases the Superior Court as a collection agency. Very often, there's simply some type of other issue arising, which is not criminal at all, and I often see that the people are trying to use the municipal courts in a way that they weren't intended.

## *Are Bad Check Cases Viewed Sympathetically by the Court?*

As an experienced New Jersey Check Fraud Lawyer, I think prosecutors are open-minded to understand the true facts of each case and certainly be willing to discuss the true nature of these transactions. I also believe that there might be some type of presumption against the individual who is being charged. But we always rest on the fact that the person who's charged with an offense

is presumed innocent, that they have the full rights of the Constitution. In our country, they're not guilty unless or until the prosecutor can prove beyond a reasonable doubt that they are.

## *Are the Elderly Less Able to Keep Track of Their Finances?*

As an experienced New Jersey Check Fraud Lawyer, I do see this, and the question really becomes is there a true crime being committed? Or is it some type of just misunderstanding between the two parties, the elderly person who's not doing their banking online but is doing it through writing checks. They are getting some assistance from their aide in writing those checks. There can be instances where an actual theft has occurred but also there is just the possibility of an honest mistake.



## *When Will You Know a Bad Check Issue Is Being Addressed by the Court?*

There are a couple different scenarios that may occur. One may be where they simply get a notice in the mail from the court that there's a probable cause here and pending. The notice will indicate when the case will occur. That could be the most nerve wracking one of all because at that point, there's the possibility of a case pending in the court. That can make somebody very uncomfortable. That's usually when I get the call to explain the process at that point.

## *Is Self-Representation a Viable Option?*

Depending of course on the level of understanding of the law, it could be okay, depending on the facts of the case. As an experienced New Jersey Check Fraud Lawyer, I would never recommend anybody representing themselves in any court if they're not comfortable doing it, especially on a criminal charge. It's certainly common that people go to court on their own traffic cases.



## *Are Some Bad Check Cases Misunderstandings?*

As a New Jersey Check Fraud Lawyer, I think that people should be very aware that the municipal court and even the Superior Court is really not a collection agency. The court is not an arm of a potential civil litigation. If there is some type of crime being committed, certainly they have the right to file charges.

But if it's simply a misunderstanding, people can usually work out misunderstandings among themselves. Or, they can use the civil court to try to gain a judgment for someone who performed a service and didn't get compensated appropriately.

**If you've been accused of passing a bad check or another type of bank fraud in New Jersey, contact experienced New Jersey Check Fraud Lawyer Carl Spector for a free confidential consultation. With over 30 years of experience handling these types of white collar crimes, he has the skills needed to ensure you receive the best possible outcome. Call today and let his experience work for you.**



### ABOUT THE AUTHOR:

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Carl Spector graduated from The University of Buffalo in New York where he received his bachelor's degree in Communication. He then received his legal education and earned his Juris Doctorate at New York Law School and Nova Southeastern University.

Attorney Carl Spector is licensed to practice in New York, New Jersey, Florida (inactive), the United States District Court, Southern and Eastern Districts of New York, and the District Court of New Jersey.

New Jersey DUI Lawyer Carl Spector worked as an attorney in the Bronx County District Attorney's office as an Assistant District Attorney for six years.

This experience has allowed him to effectively and aggressively defend clients charged with all varieties of crimes and DWI / DUI.

For the past 30 years, New Jersey DUI Lawyer Carl Spector has been representing over 10,000 people that have been charged with crimes throughout New York and New Jersey, including Bergen County, Essex County, Hudson County, Passaic County, Morris County, and Union County. New Jersey DUI Lawyer Carl Spector has served as an attorney in countless criminal and DWI / DUI matters with full control of initial investigations, trial planning, motions, discovery, legal research and courtroom appearances and trials.

Carl Spector has successfully litigated and argued many pre-trial motions to suppress evidence based on probable cause to stop and frisk and violations of the defendant's Fifth and Fourteenth Amendment rights. In 2009 Carl Spector served as the Municipal Prosecutor in the large Bergen County municipality of Fair Lawn. He was reappointed to that position for 2010 and 2011. Attorney Carl Spector was appointed by the Mayor and Counsel of Municipality Fair Lawn to serve as the alternate Public Defender in 2012, 2013, 2014, 2015 and 2016.



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