

AFFIDAVIT FOR PROSECUTION OF A WORTHLESS CHECK

STATE OF KANSAS, COUNTY OF OSAGE, SS:

COMES NOW \_\_\_\_\_, being first duly sworn upon oath, deposes and says:

1. The returned check was given to \_\_\_\_\_, located at (street address) \_\_\_\_\_, in (city) \_\_\_\_\_, Osage County, Kansas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by a person identified as \_\_\_\_\_. The check was personally received by \_\_\_\_\_, (home address) \_\_\_\_\_, (phone number) \_\_\_\_\_, who can positively identify the defendant through his/her own knowledge or by means of identification taken. The names of other witnesses having knowledge of the above are: \_\_\_\_\_.

2. That the check was/was not (*circle one*) postdated.

3. That, if a postdated date was placed on the check, it was with/without (*circle one*) my knowledge or consent.

4. That, if the check was postdated, I did not present the check for payment prior to the postdated date.

5. That, if I was requested to hold the check, I did not present the check for payment prior to the date the maker informed me there would be sufficient funds to pay the check.

6. Except for a postdated check or a check I was requested to hold, there was no delay in depositing the check or presenting it for payment, said check having been deposited or presented for payment in the usual course of business.

7. The amount of the check is \$ \_\_\_\_\_.

8. When the said check was returned unpaid from the bank, a person identified as \_\_\_\_\_, an employee of \_\_\_\_\_, (address) \_\_\_\_\_, did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by **certified mail, restricted delivery, return receipt requested**, addressed to the address as it appears on said check, advise the maker that said check had been returned from the drawee's bank unpaid and marked \_\_\_\_\_; and warned that under K.S.A. 21-3707, failure to pay the check plus a \$ \_\_\_\_\_ service charge within seven (7) days could result in criminal prosecution. That at least seven (7) days have passed since that time and the maker or drawer has not paid the value of the check plus the service charge to avoid prosecution. We also notified the maker or passer of the check by the following means: \_\_\_\_\_.

The attached check(s) is submitted to the Osage County Attorney's Office for the purpose of prosecution and not collection. No payments on said check(s) have been accepted or will be accepted by the complainant, its agents or employees; and no dismissals or any restitution for said check(s) will be proposed, planned or agreed upon by the complainant, its agents or employees, without the prior knowledge and approval of the Osage County Attorney's Office of Osage County, Kansas; and that the determination of the manner of prosecution or the dismissal thereof is in the sole discretion of the Osage County Attorney's Office.

I understand that, under the provisions of K.S.A. 21-3709, causing an unlawful prosecution for worthless checks is a Class A nonperson misdemeanor and any person convicted of such violation shall pay the taxable costs of the prosecution initiated by such person or upon information supplied by such person. Causing an unlawful prosecution for worthless checks is filing a complaint before a magistrate or supplying information upon which a prosecution for giving a worthless check is commenced with knowledge that the check, draft or order upon which such prosecution is based was postdated and such check, draft or order was presented for payment prior to the postdated date or when the payee had knowledge, when such payee accepted such check, draft or order, that there were no funds or insufficient funds in the hands of the drawee to pay such check, draft or order upon presentation and such check, draft or order was presented for payment prior to the date the maker informed the payee there would be sufficient funds.

Having read the foregoing, I do hereby affix my signature this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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*SIGNATURE OF AFFIANT*

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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*Notary Public*

My appointment expires: \_\_\_\_\_