

# On kind checks cashed, inc.talcott

Law



Case Study Any Kind Checks Cashed, Inc. v. Talcott is a case involving Talcott, an elderly man from Massachusetts and Any Kind, a check cashing outlet. The case seeks to establish whether Any Kind qualifies to be a holder in due course (HDC) based on the decision of the court. The court, by upholding a trial court finding, held that Any Kind failed to act in good faith after cashing a check of \$10, 000, but on the other hand, acted in good faith by cashing the other check of \$5, 700. Guarino had not been a regular customer of Any Kind. In addition, as argued by the trial judge, it is strange for an investment broker to carry out business through a cashing outlet, who should have used a bank instead. Guarino was also found not to have history of cashing similar checks. On this matter, the judge argued that the speed at which the check was cashed should have been the same speed used to confirm with the drawer who for whatever reason could have stopped the payment. Considering that the \$10, 000 check was a significant amount, fair dealing required Any Kind to carry out the transaction with a high degree of caution. Basically, in the case of banks, the drawer has the right to stop payment. The bank mitigates the risk of loss by holding funds after the payee presents the check (Nichols 35). This leaves the legal dispute between the drawer and the payee and in the event that such check is cashed, the loss lies with the drawer who confirmed the check. The due course doctrine applies when Any Kind immediately releases the funds to Guarino. Even though the pace at which the transaction was effected was meant to benefit the economy, the argument of easy negotiability does not in any way outweigh exercising of caution. Notably, the attraction of many check cashing outlets is their speed and convenience. However, unlike banks, a cashing outlet cannot hold a check before releasing funds. Further, the law <https://assignbuster.com/on-kind-checks-cashed-inctalcott/>

requires immediate release of funds for any instrument received from an individual engaging in the activities of cashing checks. However, this does not support the action of Any Kind and, therefore, we cannot say that the court erred in its decision since the \$ 10, 000 was not a typical check.

According to Thomas, the speed at which Any Kind transacted with Guarino depicts loose application of principles of good faith, making it a target for other forgers with the intention of swindling others out of their money (69).

The court decision can be considered as fair by deeming Any Kind as a holder in due course for the \$5, 700 check and not for the \$10, 000.

Considering that any check above \$2, 000 was a significant amount and the supervisor, Ms. Michael, had initially thought of confirming the check with the drawer before making payment, it becomes more apparent that Any Kind should have verified the \$10, 000 check with the drawer to determine its validity. Even though transaction verification would have gone contrary to the longstanding policy of speedy transaction and free negotiations, the principles of the holder of due course still applied and, therefore, Any Kind should have approached the transaction with a great deal of care. So, had Any Kind confirmed with Talcott immediately the check was presented, they could have learned that the drawer had stopped the payment. Confirming the check of \$5, 700 with Talcott, Any Kind satisfied the good faith requirement for any holder in due course. The definition of holder in due course is any cashing outlet that accepts an instrument devoid of any evidence of alteration or forgery and without notice of claims and in good faith for value (Marinelli 22). In the case of Any Kind Checks Cashed, Inc. v. Talcott, it was important to determine whether Any Kind acted in fair dealing and good faith as required to attain the status of a holder in due course.

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Good faith refers to being honest and observing commercial standards of fair dealing in every transaction undertaken (Chan-Hyung 54). I concur that Talcott was responsible for the \$5,700 despite fraudulently being induced to issue the check. In this second case, a supervisor with the authority to approve checks for over \$2000 at Any Kind, called Talcott who confirmed cashing the check, and in doing so Any Kind complied with the good faith requirement for a holder in due course. However, in the earlier cashing of the \$10,000 check, Ms. Michael, the supervisor, tried to call Talcott to get his approval, but after her efforts to reach him failed, she relied solely on her experience and judgment, which was a major test on acting in good faith. Therefore, the circumstances under which funds were paid to the endorser without proper authentication from the drawer arouse suspicion on the part of Any Kind. Works Cited Chan-Hyung, Chung. "Holder in Due Course of Commercial Paper under the U. C. C. and a Good Faith Purchaser of Bills and Checks under the Geneva Uniform Law." *Commercial Law* 13. 2 (1990): 33-57. Print. Greenlee, Mark B., and Thomas J. Fitzpatrick IV. "Reconsidering the Application of the Holder in Due Course Rule to Home Mortgage Notes." *Commercial Law* 5. 3 (2008): 67-69. Print. Marinelli Jr., J. Arthur. "Negotiable Instruments and the Holder in Due Course." *American Business Law Journal* 8. 3 (2007): 15-24. Print. Nichols, Pu. "Comparison of Instruments Law with Article 3 of the Proposed Commercial Code." *Negotiable instruments* 14. 2 (1954): 22-39. Print.