

Local lawyer wins judgment against bank she said defrauded her

By JOHN MAKEIG
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A Houston lawyer has been awarded more than \$550,000 damages by jurors who said she was defrauded by the Frost National Bank while fighting to get back \$10,000 embezzled from her account.

Jurors in state District Judge Scott Link's court decided on the sum for Mary Heafner, 51. The former actress and dancer at the Riviera in Las Vegas spent four years in a legal war with the bank over two \$5,000 checks that a longtime friend wrote in 1994.

Heafner said the bank rejected an offer to settle the fuss for \$21,000 not long before the case ended up with the jury that decided the bank en-



Heafner

gaged in fraud and deceptive business practices to avoid paying back the stolen \$10,000.

her. Testimony showed he was helping her at home and at her civil law practice.

The trouble started, according to Heafner, when she let Duane Lavelly, a man she had known since they were 9 years old, begin working for

Lavelly was authorized to write some checks on her accounts, but she said she quickly recognized when

she saw the two checks that her signature had been forged on the forms.

At the bank, Heafner said, comparison of the signatures on the checks and the signature forms she signed on opening the account soon established she had not written either check. Heafner said no one at the bank had checked the signature cards.

Testimony showed the bank got the \$10,000 back but failed to inform Heafner about it, did not keep her informed of its investigation and then went to work trying to dump the \$10,000 debt on the bank where Lavelly put the money.

The case became so involved that ultimately it took 5-inch-thick folders to hold all the documents that Frost Bank lawyers and Heafner's attor-

ney, John Fason, have filed since 1994.

"They put me through the wringer," Heafner said.

During depositions, at the urging of Fason, Heafner offered to settle the suit for \$21,000, but the bank came back with a slightly smaller sum and the case went to trial, ending in an 11-to-1 verdict. Heafner said the holdout juror was a man who wanted to give her even more money.

The panel unanimously agreed Frost National Bank engaged in fraud by trying to keep from returning Heafner's \$10,000. Jurors awarded her \$400,000 in punitive damages.

Lavelly, meanwhile, has not been charged with any crimes over the episode. This happened, Heafner

said, because he told authorities he had a common-law marriage with her.

To overcome that accusation, Heafner said, she had to go to another civil court and endure a three-day trial that ended in a summary judgment in her favor that established there was no "marriage."

Heafner said she still may pursue some type of theft charges against Lavelly over the episode.

A Frost National Bank attorney, Brennan Holland of San Antonio, said the bank was disappointed in the trial's outcome. He said his clients will appeal once Link signs a judgment on the jury's verdict.

"I think it's premature to comment because there's been no judgment entered yet," Holland explained.