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Woman Beaten by Husband Wins Suit

\$550,000 Awarded in Va. Civil Case

By Tom Jackman, Washington Post Staff Writer

When police arrived, Deborah Martin told them she didn't know if she'd been punched two or three times – or two or three hundred. From the looks of the photos taken a few hours later, it was probably closer to the latter.

Martin's husband, Ernest John Lofgren, had pinned her to the kitchen floor in their Fairfax Station home in September 2003 and hit her repeatedly. He later pleaded guilty to assault and battery and served eight weeks in jail. Earlier this year, the couple divorced, which a court commissioner blamed on "the husband's barbaric treatment of the wife."

But before the divorce was final, Deborah Martin took one more step. She sued her husband. And this week, Fairfax County jurors decided Lofgren needed to do more than just a short jail stint. They ordered him to pay Martin \$550,000, in part for the extensive bills to repair her face – and mind – and to make a statement that domestic violence is intolerable, jurors said.

Domestic violence victims in the Washington area rarely have stepped into the civil arena, experts said, for a variety of reasons, including reluctance to tangle with the legal system again, difficulty in finding a lawyer willing to take the case and inability to get money from a batterer even if they win.

But nationally, it is becoming more common, said Jeffrey R. Dion, director of the National Crime Victim Bar Association in Washington.

"Domestic violence victims are increasingly using the civil justice system to hold their perpetrators accountable," Dion said. If a batterer is arrested, he said, the victim often loses a key source of financial support and may need medical help, counseling or to move.

"I was unable to work and have any income at all," said Martin, 51, a former office manager, who left Virginia less than two months after the attack, escaping what she said was Lofgren's imprisonment of her in their home.

Martin suffered a broken cheekbone, broken nose and dislocated jaw, as well as severe dental injuries. But she said she also had to overcome "the embarrassment."

“The shame level is incredibly high. That’s how all your victims feel,” she said. “Maybe that’s why a lot of women don’t pursue personal injury cases.”

Court records indicate that at the time of the incident, Lofgren was a software developer with Northrup Grumman Corp. who earned \$93,000 a year. He no longer is employed there. Lofgren’s attorney, Robert J. Cunningham, said he did not condone the beating but that the jury in the civil case “didn’t hear the entire story due to pretrial rulings.” A Fairfax judge prohibited Lofgren from putting on a defense because he did not respond to pretrial filings.

Lofgren, 41, did not testify at the two-day trial. But a commissioner in chancery and a Fairfax circuit judge – who both heard Lofgren and Martin testify in their divorce case last fall – found Lofgren at fault despite his claims that Martin goaded him into violence.

“The Commissioner finds the wife to be far more credible on the events of that day,” Commissioner Brian M. Hirsch wrote after a pre-divorce hearing. “Even if . . . the Commissioner were to believe the husband’s version of the events, his response to the wife, a woman of such slight build (i.e. 115 pounds), was grossly disproportionate to what the husband alleged her to have done.”

Hirsch said he had been practicing domestic law for 20 years, and the photos of Martin’s injuries “are fairly shocking. And I’m very careful how I choose my words. Shocking is the word I would choose.”

After the divorce trial, Fairfax Circuit Judge Gaylord L. Finch Jr. ordered Lofgren to pay Martin \$2,000 a month in spousal support and \$10,000 for her attorney’s fees. The couple were married in April 2002, separated in November 2004 and finalized their divorce in February 2006.

At the end of the civil trial, Martin’s attorneys, Richard F. MacDowell Jr. and Mehagen D. McRae of Fairfax City, asked for \$650,000 in damages for Martin’s actual costs plus pain and suffering and an additional \$350,000, the maximum allowed in Virginia, in punitive damages. Jurors said they thought the \$650,000 figure was too high, since Martin’s estimated medical costs were about \$80,000.

But they wanted to go slightly above the \$350,000 punitive figure, juror Cynthia S. Deatherage said.

“We did want to send a message that no matter what the circumstance, nobody deserves that kind of treatment,” she said. So the jury awarded \$351,000 in punitive damages and \$200,000 in actual damages. The punitive award was reduced by \$1,000 because of a state cap of which jurors were not aware.

Juror Carey A. Williams said that “some of the testimony showed us he was cruel and inhumane. I have a problem with frivolous lawsuits, but I didn’t feel this was frivolous. I felt she had a right to ask for compensation for the damage he did to her.”

Martin said she had been attacked by Lofgren once before, in July 2002. She said Lofgren beat her with a tree limb and pushed her into some weight equipment, breaking two of her ribs and puncturing one of her lungs. But she did not call police. Her attorneys said that after that incident, Martin resolved to get proof if she were beaten again.

The second episode occurred Sept. 17, 2003, when Lofgren attacked Martin in an apparent drunken rage. Martin testified that Lofgren picked her up, threw her down on her back, then pinned her arms with his knees while he pummeled her face.

Lofgren fled into woods near their house, and police searched for Lofgren while Martin went to the hospital. When Martin returned home to collect her keys and some belongings, Lofgren was inside waiting. He told her the only way she would leave Virginia “was in a pine box,” Martin testified. Lofgren took her keys and money and prevented her from leaving or calling for help, Martin said. She stayed with Lofgren until November 2003.

Margaret Drew, the former head of the American Bar Association’s Domestic Violence Commission, said that lawsuits are “something that 90 percent of victims never think of.” She said the prospect of more months or years in court is daunting, but “in the last few years, I think more lawyers who represent domestic violence victims are discussing the possibility of bringing a civil action.”

Martin said she still feared Lofgren but agreed to tell her story because she wants “women to know there is help out there. There are legal ways to help yourself, and that they need to get out of their situations.”

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