

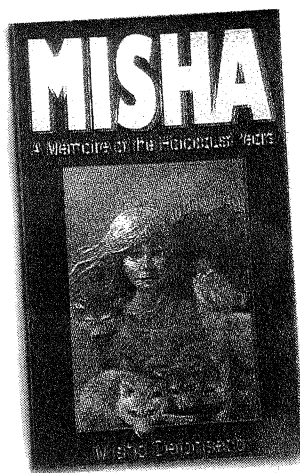
## Tall tale takes a new twist in court

Publisher will not  
have to pay author  
for sham memoir

By David Abel  
GLOBE STAFF

When Misha Defonseca admitted that her best-selling memoir about surviving the Holocaust with the help of wolves was a sham, her publisher thought she could avoid paying the author and her ghost writer a disputed \$32.5 million for allegedly concealing profits from sales.

Yesterday, after a decade of litigation, a panel of judges in the state Appeals Court ruled that the publisher does not have to pay Defonseca the \$22.5 million awarded to her by a jury but still owes \$10 million to the ghost



writer, who was unaware of the hoax.

In a decision written by Judge Gabrielle R. Wolohojian, the panel found that Janè Daniel, sole proprietor of Mt. Ivy Press in Gloucester, should not have to pay Defonseca, because the jury's verdict was based on the false story that she was Jewish, that she survived the Holocaust as a child by roaming through Europe on foot, and that she received protection and food from a pack of wolves.

It was later learned that Defonseca, who now lives in Dudley, is not Jewish, that she was safely attending school in Brussels during the period she said she was a refugee, and that

# Publisher wins round in Appeals Court in case of false memoir

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her father reportedly provided Nazis with information about the Belgian resistance movement.

"There are some falsehoods that are so emotionally inflammatory that they impede the jury's ability impartially to evaluate facts and adjudicate a case," Wolohojian wrote in the ruling. "Falsely claiming to be a victim (and survivor) of the Holocaust is such a one, particularly where — as here — the claim is the foundation of a book."

The case has a tortured history that began before Daniel published "Misha: A Memoire of the Holocaust Years," in 1997. The book, eventually translated into 18 languages, became a bestseller in Europe and the basis for a hit French movie. It also received the attention of The Walt Disney Co., which signed an option for a movie, and Oprah Winfrey's program, which filmed Defonseca with wolves at Wolf Hollow in Ipswich. Both dropped out as tensions among the author, ghost writer, and publisher crested into what became a long court fight.

Defonseca, originally from Brussels, moved to Massachusetts in 1988 and became known for giving talks about her World War II experiences to local Jewish organizations. Based on those talks, Daniel offered Defonseca a book contract and hired Vera Lee, her French-speaking former friend and neighbor, to serve as coauthor.

Lee and Daniel squabbled about the manuscript when Lee said it needed more fact-checking, and Daniel eventually removed Lee's name from the cover and put it on the copyright page. A year after the book was published — with a blurb from Nobel laureate Elie Wiesel,



SUZANNE KREITER/GLOBE STAFF/FILE 2008



MARY SCHWALM/ASSOCIATED PRESS/FILE 2008

An Appeals Court panel ruled yesterday that Gloucester publisher Jane Daniel (left) will not have to pay an earlier jury award to author Misha Defonseca.

author of the Holocaust memoir "Night" — Lee sued Daniel, arguing that her rights as coauthor had been violated. Defonseca also sued Daniel, asserting that the publisher broke promises to publicize the book and hid profits in offshore corporate accounts.

Daniel denied the allegations, but in 2001 a Middlesex Superior Court jury awarded \$7.5 million in damages to Defonseca and \$3.3 million to Lee. The judge tripled the damages, to nearly \$10 million for Lee and \$22.5 million for Defonseca, because of the allegedly egregious conduct. The jury also awarded rights to the book to Defonseca, who sold it to publishers in Europe.

To collect on their awards, Defonseca's lawyer sought a \$425,000 inheritance held by Daniel's father, who signed it over to Defonseca, and Lee's lawyer demanded that Daniel pay \$2,000 a month. When Daniel

said she did not have the money, a judge jailed her for contempt, and she spent a night in MCI-Framingham, until a friend raised the money.

Under threat of being sent back to jail, Daniel signed a settlement with Lee's lawyer, Frank Frisoli of Cambridge, ultimately allowing him the right to sell her house.

But in 2008, documents emerged in the Belgian press discrediting Defonseca's account, and she admitted her story was a lie. In her statement at the time, Defonseca admitted she had made up the story of trekking thousands of miles through Europe and blamed Daniel for prodding her to put it in the book.

"There are times when I find it difficult to differentiate between reality and my inner world," she said. "The story in the book is mine. It is not the actual reality; it was my reality, my way

of surviving."

Soon afterward, Daniel appealed the rulings in Middlesex Superior Court, arguing that the awards against her were the result of perjured testimony, false court pleadings, and fraudulent exhibits, which misled the jury. A Superior Court judge dismissed the appeal, saying it was not filed within the one-year period required.

But yesterday, the state Appeals Court ruled there were "extraordinary circumstances" to justify Daniel's appeal.

"It is true, as the defendants point out, that the book's authenticity was not the central issue at trial," Wolohojian wrote. "Despite this, it is difficult to imagine that this information, had it been known to Daniel and Mt. Ivy, would not have provided a meritorious defense to at least some of the claims."

In sustaining the award for

Lee, the judge wrote: "The complaint does not allege that Lee knew, or had reason to know, that Defonseca's memoir was fraudulent. The complaint's silence in this regard is consistent with the trial judge's conclusion that the allegations indicated Lee alerted Daniel to the fact that the book had not been fact-checked, and that many historical facts needed to be verified."

Daniel did not return calls yesterday, but Brian McCormick, a Gloucester lawyer representing her, said it was a fair ruling.

"I'm very pleased the court didn't allow Defonseca to profit from her hoax and use the judicial system as a pawn in the process of obtaining such profit," he said. "As far as Vera Lee goes, we believe you can't really separate one from the other. We think Defonseca's conduct tainted the entire trial, but the fact is that when you look at it, Jane Daniel

could not have had a fair trial."

He said he intends to appeal that portion of the decision to the Supreme Judicial Court.

Reached at home, Defonseca, now 73, said she had long ago written off receiving money from Daniel.

"I never wanted to make this book; Jane Daniel pushed me to do this," she said. "Now, I want my life back. I want peace. This has been very painful."

Frisoli, Lee's lawyer, said he intends as soon as possible to sell Daniel's house overlooking Gloucester harbor, which he estimates is worth as much as \$2 million.

"It's just tragic we've been involved in this litigation for so long," Frisoli said. "Justice would have been that Vera Lee collected her judgment years ago."

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