**Alternate Case Problems**

*Chapter 15*

**Banking in the Digital Age**

**15-1. Monthly Statements.** Steven Gerber had a joint checking account with his mother at City National Bank of Florida. Between January and May 1990, a number of checks were allegedly forged on the account. Gerber asked City National to recredit the account for the amount of the checks, but the bank refused. In March 1992, Gerber filed a lawsuit against the bank. City National filed a motion to dismiss, claiming that the suit was barred because Gerber did not file it within a year of City National’s making available to Gerber the bank statements that reflected the forged checks. Gerber argued that the only requirement was that he notify the bank of any unauthorized signatures within a year. How should the court rule? [*Gerber v. City National Bank of Florida*, 619 So.2d 328 (Fla.App. 1993)]

**15-2. Wire Transfers.** Dr. As’ad M. Masri and his wife borrowed $150,000 from First Virginia Bank–Colonial (FVBC). Masri then signed a wire transfer request directing FVBC to transfer the funds to the Amro Bank in Amsterdam. The request also stated that the funds were to be deposited to the Lenex Corp.’s account in that bank. FVBC trans­ferred the funds to the Bank of Nova Scotia, an intermediary bank, and sent disbursal in­structions directly to Amro. The following day, the funds were credited to the Lenex ac­count at the Amro Bank. They were withdrawn, however, by someone other than the per­son intended by Masri to withdraw them. When the Masris later defaulted on the loan, FVBC sought full repayment. The Masris claimed that FVBC had breached the wire transfer agreement. Did FVBC breach the transfer agreement? Where did FVBC’s re­sponsibility end? Discuss fully. [*First Virginia Bank–Colonial v. Masri,* *M.D.,* 245 Va. 461, 428 S.E.2d 903 (1993)]

**15-3. Stale Checks.** On July 15, 1986, IBP, Inc., issued to Meyer Land & Cattle Co. a check for $135,234.18 payable to both Meyer and Sylvan State Bank for the purchase of cattle. IBP wrote the check on its account at Mercantile Bank of Topeka. Someone at the Meyer firm misplaced the check. In the fall of 1995, Meyer’s president Tim Meyer found the check behind a desk drawer. Jana Huse, Meyer’s office manager, presented the check for deposit at Sylvan, which accepted it. After Mercantile received the instrument and its computers noted the absence of any stop‑payment order, it paid the check with funds from IBP's checking account. IBP insisted that Mercantile credit IBP's account. Mercantile refused. IBP filed a suit in a federal district court against Mercantile and others, claiming, among other things, that Mercantile had not acted in good faith because it had processed the check by automated means, without examining it manually. Mercantile responded that its check-processing procedures adhered to its own policies, as well as to reasonable commercial standards of fair dealing in the banking industry. Mercantile filed a motion for summary judgment. Should the court grant the motion? Why or why not? [*IBP, Inc. v. Mercantile Bank of Topeka,* 6 F.Supp.2d 1258 (D.Kan. 1999)]

**15-4.****Debit Cards.** On April 20, 1999, while visiting her daughter and son-in-law Michael Dowdell, Carol Farrow asked Dowdell to fix her car. She gave him her car keys, attached to which was a small wallet containing her debit card. Dowdell repaired her car and returned the keys. Two days later, Farrow noticed that her debit card was missing and contacted Auburn Bank, which had issued the card. Farrow reviewed her automated-teller-machine (ATM) transaction record and noticed that a large amount of cash had been withdrawn from her checking account on April 22 and April 23. When Farrow reviewed the photos taken by the ATM cameras at the time of the withdrawals, she recognized Dowdell as the person using her debit card. Dowdell was convicted in an Alabama state court of the crime of fraudulent use of a debit card. What procedures are involved in a debit-card transaction? What problems with debit-card transactions are apparent from the facts of this case? How might these problems be prevented? [*Dowdell v. State,* 790 So.2d 359 (Ala.Crim.App. 2000)]

**15-5. Check Collection.** Robert Santoro was the manager of City Check Cashing, Inc., a check-cashing service in New Jersey, and Peggyann Slansky was the clerk. On July 14, Misir Koci presented Santoro with a $290,000 check signed by Melvin Green and drawn on Manufacturers Hanover Trust Co. (a bank). The check was stamped with a Manufacturers certification stamp. The date on the check had clearly been changed from August 8 to July 7. Slansky called the bank to verify the check and was told that the serial number “did not sound like one belonging to the bank.” Slansky faxed the check to the bank with a query about the date, but received no reply. Slansky also called Green, who stated that the date on the check was altered before it was certified. Check Cashing cashed and deposited the check within two hours. The drawee bank found the check to be invalid and timely returned it unpaid. Check Cashing filed a suit in a New Jersey state court against Manufacturers and others, asserting that the bank should have responded to the fax before the midnight deadline in UCC 4–302. Did the bank violate the midnight-deadline rule? Explain. [*City Check Cashing, Inc. v. Manufacturers Hanover Trust Co.,* 166 N.J. 49, 764 A.2d 411 (2001)]

**15–6. Forged Signatures.** Visiting Nurses Association of Telfair County, Inc. (VNA), maintained a checking account at Security State Bank in Valdosta, Georgia. Wanda Williamson, a VNA clerk, was responsible for making VNA bank deposits, but she was not a signatory on the association’s account. Over a four-year period, Williamson embezzled more than $250,000 from VNA by forging its indorsement on checks, cashing them at the bank, and keeping a portion of the proceeds. Williamson was arrested, convicted, sentenced to a prison term, and ordered to pay restitution. VNA filed a suit in a Georgia state court against the bank, alleging, among other things, negligence. The bank filed a motion for summary judgment on the ground that VNA was precluded by UCC 4–406(f) from recovering on checks with forged indorsements. Should the court grant the motion? Explain. [*Security State Bank v. Visiting Nurses Association of Telfair County, Inc.,* 568 S.E.2d 491 (Ga.App. 2002)]

**15–7. Forged Signatures.** Cynthia Stafford worked as an administrative professional at Gerber & Gerber, P.C. (professional corporation), a law firm, for more than two years. During that time, she stole ten checks payable to Gerber & Gerber (G&G), which she indorsed in blank by forging one of the attorney’s signatures. She then indorsed the forged checks in her name and deposited them in her account at Regions Bank. Over the same period, G&G deposited in its accounts at Regions Bank thousands of checks amounting to $300 million to $400 million. Each G&G check was indorsed with a rubber stamp for deposit into the G&G account. The thefts were made possible in part because G&G kept unindorsed checks in an open file accessible to all employees and Stafford was sometimes the person assigned to stamp the checks. When the thefts were discovered, G&G filed a suit in a Georgia state court against Regions Bank to recover the stolen funds, alleging in part negligence. Regions Bank filed a motion for summary judgment. What principles apply to attribute liability between these parties? How should the court rule on the bank’s motion? Explain. [*Gerber & Gerber, P.C. v. Regions Bank,* 266 Ga.App. 8, 596 S.E.2d 174 (2004)]

**15–8.** **Forged Drawers’ Signatures.** In December 1999, Spacemakers of America, Inc., hired Jenny Triplett as a bookkeeper. Triplett was responsible for maintaining the company checkbook and reconciling it with the monthly statements from SunTrust Bank. She also handled invoices from vendors. Spacemakers’ president, Dennis Rose, reviewed the invoices and signed the checks to pay them, but no other employee checked Triplett’s work. By the end of her first full month of employment, Triplett had forged six checks totaling more than $22,000, all payable to Triple M Entertainment, which was not a Spacemakers vendor. By October 2000, Triplett had forged fifty-nine more checks, totaling more than $475,000. A SunTrust employee became suspicious of an item that required sight inspection under the bank’s fraud detection standards, which exceeded those of other banks in the area. Triplett was arrested. Spacemakers sued SunTrust Bank, which filed a motion for summary judgment. On what basis could the bank avoid liability? In whose favor should the court rule, and why? [*Spacemakers of America, Inc. v. SunTrust Bank,* 271 Ga.App. 335, 609 S.E.2d 683 (2005)]

**15–9. Bank’s Duty of Care.** When Arnett Gertrude was diagnosed with cancer, she added her nephew, Jack Scriber, as an authorized signatory to her checking account. Before Gertrude died, Scriber wrote checks on the account to transfer nearly all of the $600,000 in the account to his own account. After Gertrude’s death, Bobbie Caudill, the administrator of her estate, discovered the withdrawals and filed a suit against the bank. What is the relationship between a bank and its customer? Is the bank liable in this case? Why or why not? [*Caudill v. Salyersville National Bank,* 2010 WL 45882 (Ky.App. 2010)]

**15–10. A Question of Ethics**

From the 1960s, James Johnson served as Bradley Union’s personal caretaker and assistant, and was authorized by Union to handle his banking transactions. Louise Johnson, James’s wife, wrote checks on Union’s checking account to pay his bills, normally signing the checks “Brad Union.” Branch Banking & Trust Co. (BB&T) managed Union’s account. In December 2000, on the basis of Union’s deteriorating mental and physical condition, a North Carolina state court declared him incompetent. Douglas Maxwell was appointed as Union’s guardian. Maxwell “froze” Union’s checking account and asked BB&T for copies of the canceled checks, which were provided by July 2001. Maxwell believed that Union’s signature on the checks had been forged. In August 2002, Maxwell contacted BB&T, which refused to recredit Union’s account. Maxwell filed a suit on Union’s behalf in a North Carolina state court against BB&T. [*Union v. Branch Banking* & *Trust Co.,* 176 N.C.App. 711, 627 S.E.2d 276 (2006)]

**1.** Before Maxwell’s appointment, BB&T sent monthly statements and canceled checks to Union, and Johnson reviewed them, but no unauthorized signatures were ever reported. On whom can liability be imposed in the case of a forged drawer’s signature on a check? What are the limits set by Section 4–406(f) of the Uniform Commercial Code? Should Johnson’s position, Union’s incompetence, or Maxwell’s appointment affect the application of these principles? Explain.

**2.** Why was this suit brought against BB&T? Is BB&T liable? If not, who is? Why? Regardless of any violations of the law, did anyone act unethically in this case? If so, who and why?