

## Former Atlantic City Lawyer Wins Damages in Whistleblower Suit

By Jim Edwards

**A** former assistant solicitor in Atlantic City's law department has won a \$51,000 jury verdict in a whistleblower suit that featured testimony from two Superior Court judges and a municipal judge.

Jonathan Diego claimed he was fired after he complained that the city's law department had ignored several incidents of police corruption.

In January 2000, Diego was ordered by Atlantic County Judge Albert Garofolo to turn over a set of records from an investigation by the police Internal Affairs unit. Diego, in obtaining the file, saw Detective Joseph Fair remove several sheets of paper from the packet and stuff them into his pocket before it was delivered to Garofolo.

Diego complained to his boss, city solicitor Mary Siracusa, who fired him two weeks later. Siracusa later became a municipal judge. Garofolo and Siracusa testified at trial before Ocean County Judge Edwards Oles.

Diego wrapped several other accusations of police mismanagement into his suit, including a charge that con-

cerns by black officers of racial profiling in the city were ignored. He also alleged that a pair of officers who had taken a homeless man to a remote spot in the city and deliberately assaulted him with Mace spray were disciplined leniently because one was a friend of the mayor.

No settlement talks occurred before the trial, which ended on June 26, according to Diego's attorney, Andrew Dwyer of Dwyer & Dunnigan in Newark. "They never were willing to put one dime on the table," he says.

In its defense, the city claimed that Fair had removed from the file a criminal history he believed the law required him to destroy, and that Diego's whistleblower claim under the state Conscientious Employee Protection Act was bogus because he had waited 10 months to mention the incident.

The city's lawyer says that in reality, Diego was let go because he was abusive to his colleagues and Superior Court staff members. James Savio produced former Atlantic County Judge Anthony Gibson to testify that Diego once yelled at his secretary.

The multiple accusations of police wrongdoing also complicated the case, says Savio, who runs a Margate firm. "I guess we tried five trials within one. ... I think anybody who tries a number of cases recognizes that here is a small percentage where the jury doesn't get it right, and I think this case falls within that."

As Savio consults with his client on appeal options, Dwyer is working on his fee application. "It's going to be in the tens of thousands, higher than the verdict for sure," he says. ■