

SUITS & DEALS

\$640,000 Whistle-blower Award —

Higgins v. Pascack Valley Hosp.: A Bergen County registered nurse won a \$640,000 jury verdict on July 19 in a suit challenging violations of the Conscientious Employee Protection Act.

Josephine Higgins, 49, a contract employee at Pascack Valley Hospital in Westwood and the mayor of Woodcliff Lake, claimed the hospital retaliated after she reported that a paramedic she accompanied on an emergency call stole prescription pills from a patient's home.

The hospital denied the retaliation charges. Defense attorney, **John Schmidt Jr.**, a partner in Westfield's **Lindabury, McCormick & Estabrook**, says a motion for remittitur — which could lower the award or result in a new trial — will be heard this month before the trial judge, Bergen County Superior Court Judge **Isabel Stark**.

After a trial of about two weeks, the jury awarded \$320,000 in lost compensation and compensatory damages, and attributed \$50,000 of that to a defamation claim; \$320,000 in punitive damages also were awarded.

One of Higgins' attorneys, **Andrew Dwyer**, an associate in Newark's

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Reinhardt & Schachter, says that Higgins reported to hospital officials in 1991 that paperwork had been falsified in the hospital's mobile intensive care unit. He says that nothing came of that report, but after the January 1992 pill incident, paramedics in the unit began complaining about Higgins, refusing to work with her.

Dwyer says Higgins' hours were cut and she was not offered a permanent position when there was an opening. He says that the jury found that Higgins reasonably believed that the paramedic broke the law in allegedly removing the pills, and the hospital's actions — and inaction with regard to its mobile unit employees — constituted retaliation under CEPA, at N.J.S.A. 34:19-1 et seq. "I think that it was a real vindication for my client," Dwyer says.

Both sides say Higgins' CEPA claim created a case of first impression because it sought damages for retaliation by the employee's co-workers, rather than the employer. Says Dwyer, "We think the administrators orchestrated the effort to remove her."

Schmidt says appeals will center on Stark's ruling on CEPA's applicability, a mitigation of damages issue and the hospital's responsibility for the employees' allegedly defamatory remarks.

Reinhardt & Schachter name partner **Paul Schachter** also worked on Higgins' case.

—By Russ Bleemer