

\$565G award cleared for harassed teacher

■ Court: Jersey City district must pay up

By Ken Thorbourne

Journal staff writer

Doris Green, a former Jersey City science teacher, is in line to receive \$565,000, after a ruling by the New Jersey Supreme Court.

And the Jersey City Public Schools district is \$300,000 poorer — at a minimum.

On Aug. 11, the court decided that Green is entitled to the money, having proved to a jury's and the Appellate Court's satisfaction that she was harassed by a former supervisor after refusing to participate in an unethical scheme, to the point that she developed illnesses that ended her 30-year teaching career.

The Supreme Court upheld a February 2000 jury verdict and an Appellate Court decision awarding Green \$265,000 in compensatory damages and \$300,000 in punitive damages.

Charlotte Kitler, the general counsel for the school district, said the \$300,000 in punitive damages will be taken out of district coffers. She said the district is still debating with its insurance company over who will cover the \$265,000 in compensatory damages, but the attorney's fees,

roughly \$100,000, will be picked up by the insurance.

The court's decision has far-reaching implications, since \$300,000 of the money awarded to Green comes, as punitive damages.

For years, the state Legislature has debated, but has not resolved, the question of whether or not individuals suing public entities are entitled to punitive damages. Some argue that such an award unfairly penalizes taxpayers.

Writing on behalf of the narrow 4-3 majority that voted to give Green the money, Chief Justice Deborah Poritz stated that "For nine years, the court repeatedly has requested that the Legislature take up the issue of punitive damages against public entities. The Legislature has not acted. We can only assume from that silence that it intended to subject public entities to punitive damages."

Green could not be reached for comment but Alan Krumholz, her attorney, praised the court's decision.

"I feel very good. It protects the rights of whistleblowers," Krumholz said. "I think it is appropriate for the court to allow

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the punitive damages against public entities just as with private entities because the most egregious cases involve public entities."

Green sued the district under the state's whistleblower law, officially named the Conscientious Employee Protection Act.

Kitler said she was "stunned" by both the jury verdict, which was reached in February 2000, and the courts' subsequent decision to award punitive damages.

The origins of the case date to May 1995, when Green says she was approached by Charlotte Wiggins, then principal of School 22, to act as a conduit for a \$500 check, money that was ultimately to wind up in the hands of an after-school instructor who was working without proper credentials.

Green testified that Wiggins wanted her to cash the check, then turn over the cash to Wiggins, and that Wiggins said she would pass the money along to the after-school supervisor.

Once she refused to participate in this plot, Green testified that Wiggins harassed her for the next two years, actions that included giving her sub-par evaluations, denying field trips to her students, and assigning her to a dilapidated classroom.

Ultimately, Green left her teaching position in May 1997, the result of severe headaches and other physical ailments that a psychiatrist testified was directly related to the workplace harassment she had undergone.

Kitler said she knows Wiggins and found the allegations against her incredible.

"I know these people and could not believe that she (Wiggins) did what was claimed," said Kitler. "Our reaction is 'Wow.'"

Green sued the district 1997 and the case was tried before a jury in February 2000.

The court dropped Wiggins as a defendant, pointing out that the state's whistleblower law is intended to hold entities accountable, not individuals. Wiggins, who no longer works for the district, could not be reached for comment.

The school district appealed the verdict, arguing that Green's lawsuit was not timely given the one-year window to sue under the whistleblower act and that public entities should not be subject to punitive damages. The district appealed the Appellate Court ruling and the Supreme Court agreed to hear the case.

On the question of punitive damages being paid to individuals who sue public entities, the Supreme Court's majority ruling relied on a 2003 case, *Lockley vs. Department of Corrections*, in which the court found that it was appropriate to impose punitive damages in cases that involve "the willful indifference or actual participation by upper management."

In regard to the timeliness of Green's lawsuit, the court found that where an individual "is subject to a continual pattern of tortious conduct," the clock doesn't start ticking until "the wrongful action ceases."

Green, who both left her teaching post and sued the district in 1997, was well within her window of opportunity to sue the district, the court found.

The Jersey City Public Schools, taken over by the state in 1989, is one of New Jersey's 30 "special needs," or Abbott districts.

Kitler said the \$300,000 punitive award to Green simply takes away resources that would otherwise be spent on students in the district. "It was very costly," she said. "That's why I say we were stunned."

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