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Jury sides with deaf patient  
in suit against doctor **PAGES 4-5**



**Hurley  
leaving  
city job**

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**YOKO'S  
friend  
NIGU**

**LIFE**

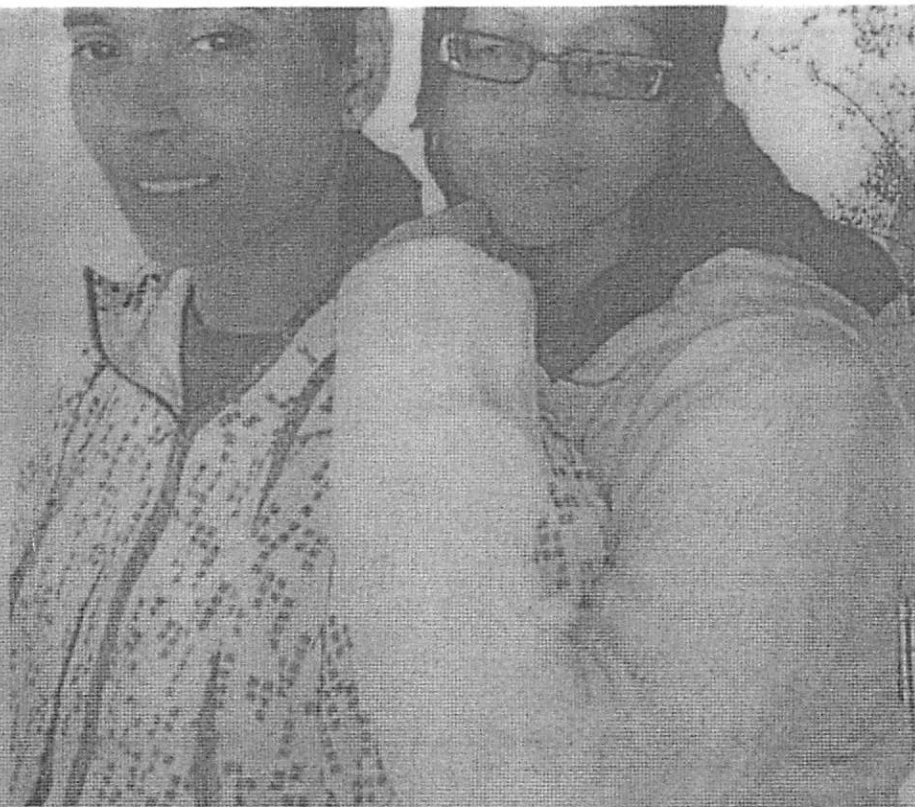
# TO 'HUMILIATION'



IRMA GERENA, left, with her partner Lourdes Torres, successfully sued Jersey City doctor Robert Fogari for not providing a sign language interpreter.

## Jury says doc must pay for not having interpreter

PAIN CLINIC  
ROBERT FOGARI, M.D. F.A.C.R.  
201-795-2999  
OSTEOPOROSIS TREATMENT CENTER



IRMA GERENA, left, with her partner Lourdes Torres, successfully sued Jersey City doctor Robert Fogari for not providing a sign language interpreter.

## Jury says doc must pay for not having interpreter

By PAUL KOEPP  
JOURNAL STAFF WRITER

When Irma Gerena came down with lupus, a chronic autoimmune disorder, in 2004, she went to Dr. Robert Fogari, a Jersey City rheumatologist with a checkered legal past but many strongly supportive patients.

The doctor treated her for about 20 months, prescribing steroids to control the symptoms of the disease.

There was a hang-up, though. Gerena is deaf, and Fogari said he could not afford to pay the \$150 to \$200 it would cost to provide an interpreter for her monthly visits — especially since Gerena's insurance only reimbursed \$49 per appointment.

So with the backing of disability attorney Clara Smit, of East Brunswick, the Jersey City native filed a lawsuit in November 2005 under the New Jersey Law Against Discrimination and the Americans with Disabilities Act.

On Oct. 9, a jury in the Jersey City courtroom of state Superior Court Judge Mary Costello awarded Gerena \$400,000; \$200,000 in compensatory damages and \$200,000 in punitive damages.

No malpractice or diminished care was ever proven.

Smit called the case "very novel" and disputed Fogari's claim that he could not afford an interpreter, saying he makes over \$400,000 a year.

"It's the cost of doing business, just like putting in a (handicapped) ramp," Smit said. "It's what our statutes require, it's what our society requires."

Speaking by phone through an interpreter, Gerena, 38, who now lives in New York City and worked at Bear Stearns until she was laid off last year, said she was "very satisfied" with the verdict.

Fogari's attorney, Antranig Aslamian, of Fort Lee, called the verdict "grossly excessive" and said the doctor will appeal.

He pointed out that there was no proof that Gerena received deficient care, and said Fogari believed he had "effective communication," as required by the ADA, with Gerena's civil union

partner and the partner's 9-year-old daughter acting as interpreters.

But Smit said that since Gerena's partner, Lourdes Torres, is also deaf, "It was like the blind leading the blind."

She said Gerena did understand her lupus diagnosis "but she couldn't ask questions about what that meant" since communicating secondhand and through written notes was "cumbersome."

Smit argued the jury award was "completely justified" because Gerena "experienced so much frustration, so much humiliation" when Fogari did not accommodate her.

This is not the first brush with the law for Fogari, a former director of the Board of Managers

at the old Jersey City Medical Center.

The doctor was indicted in 1988 on charges he falsified data on drug studies for the treatment of arthritis and that he faked studies to scam drug companies out of \$1.8 million. Fogari pleaded guilty to some of the charges, paid almost \$4 million in fines and restitution and was sentenced to four years in federal prison.

His medical license was revoked by the state Board of Medical Examiners in 1989, but he regained a limited license after he was paroled in 1990. Fogari reopened his practice at Kennedy Boulevard and St. Pauls Avenue in 1996.

He did not return phone calls seeking comment.