

# New Jersey Law Journal

STATEWIDE LEGAL AUTHORITY SINCE 1878

VOL. CLXXXIII NO. 5

MONDAY, JANUARY 30, 2006

AEM

**The Best and the Brightest** — In a defeat for “best practices,” the Appellate Division has summarily ordered a Morris County judge to accept an expert report filed just before a legal malpractice trial date, too late to meet best-practice guidelines.

Plaintiff Helen Miller accuses retired trusts lawyer **Samuel Lambert III** of giving negligent and costly tax advice to an estate. An expert’s report submitted by Miller’s first malpractice lawyer, **David Maran** of Newark’s **Maran & Maran**, was barred as an impermissible net opinion. When Miller replaced Maran with **Glenn Bergenfield**, a Princeton solo, the judge said Bergenfield’s new expert report was too late, given the imminence of the trial.

Bergenfield suggested in arguments that his inability to wield the new expert report against Lambert would require him to expand the litigation and sue Maran.

In *Miller v. Lambert*, Appellate Division Judges **Harvey Weissbard** and **Marie Lihotz** said they appreciated the dilemma that previous rulings and an imminent trial date had created for Judge **Deanne Wilson**. But “the Best Practices rule revisions were not designed to do away with substantial justice on the merits or to preclude rule relaxation when necessary to secure a just determination,” they said.