

# New Jersey Law Journal

STATEWIDE LEGAL AUTHORITY SINCE 1878

NJLJ.COM

NJLJ

MONDAY, DECEMBER 13, 1999

An **ALM** Publication

## 'Local Counsel' Malpractice Suit Settled by Insurers for \$1.4M

By Henry Gottlieb

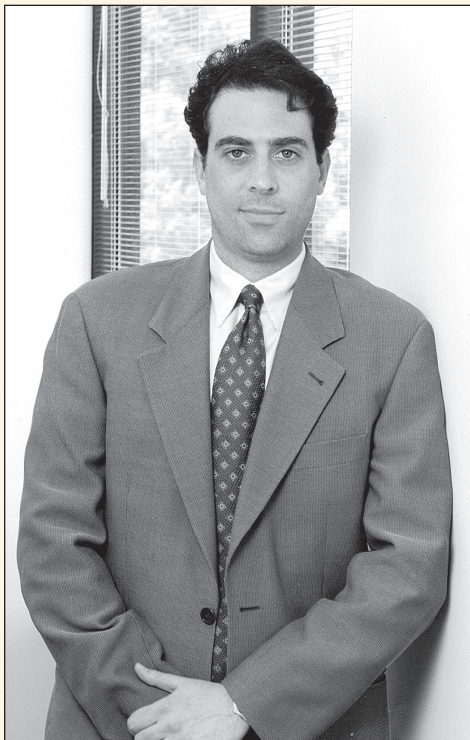
**M**alpractice insurance carriers have decided to pay a \$1.4 million settlement and avoid a trial of whether two Essex County lawyers who insisted they were hired solely for ministerial tasks were just as responsible as the out-of-state lead counsel for an allegedly botched case.

Garden State Indemnity Co., Inc. of Freehold, which covered Roseland's Franzblau Dratch, will pay \$1 million and Reliance Insurance Co., of Philadelphia, which insured South Orange's now disbanded Glickman & Bassetti, will pay \$400,000 under an agreement recorded Sept. 17 before Bergen County Superior Court Judge Peter Doyne.

Counsel in the case, *Wiggins v. Beigel Schy*, BER-L-7243-95, promised to refrain from publicizing the settlement, so its existence was not immediately made known to the press.

The settlement obviates the need for a trial on an issue of interest to any lawyer called in as local counsel by out-of-state firms litigating in New Jersey: how much of the damages, if any, were attributable to local counsel Robert Glickman and Edward Bassetti.

Glickman was hired in 1988 by Chicago's Beigel & Sandler — later known as Beigel Schy Lasky Rifkind Goldberg & Fertik — to serve as local counsel for a group of partners in a failed real estate venture. The clients wanted to recoup their losses, and there were a number of possible targets, including New York's Herzfeld & Rubin. In the mid-1980s, that firm had represented the real



**LAYING THE BLAME:** The plaintiffs' attorney, David Mazie, left, argued that local counsel as a matter of law are fully responsible for the conduct of the case.

estate partnership in the transactions that lost money.

At the time, Glickman was a partner in Roseland's Greenberg Margolis, the predecessor firm of Franzblau Dratch, and Bassetti was an associate in the firm. They took the file with them when they formed Glickman & Bassetti. Glickman subsequently retired and Bassetti is now with Florham Park's Loalbo & Bassetti.

Herzfeld & Rubin denied it did anything wrong, but before the merits of the malpractice claim could be argued it was

dismissed in 1992 on grounds that the six-year statute of limitations had expired.

The plaintiffs, now represented by David Mazie, sued Beigel Schy for malpractice, but that firm went bankrupt, leaving only two potential deep pockets: malpractice insurers for Glickman & Bassetti and Franzblau Dratch.

The defense said the evidence would show that the Chicago firm deliberately limited the local counsels' role to purely ministerial tasks. Specifically, the local counsel were not retained to perform any analysis to determine if or when claims against Herzfeld & Rubin accrued, the defense argued.

Mazie, a partner with Livingston's Nagel Rice & Dreifuss, countered that local counsel — as a matter of law — are fully responsible for the conduct of a case, regardless of the terms of engagement. However, Bergen County Superior Court Judge Jonathan Harris ruled last year that the culpability of the local counsel was a question to be decided at trial.

Doyne said at the Sept. 17 settlement hearing that the litigation was "as intriguing a case as I can recall," but the settlement makes it unnecessary for him to try it.

By all accounts, Franzblau Dratch is an innocent bystander, brought in only because its liability policy with Garden State appeared to cover acts that occurred during the existence of its predecessor firm — the one Glickman and Bassetti were in — Greenberg Margolis.

Whether Garden State or Reliance, which covered claims against Glickman & Bassetti, was responsible for coverage was the subject of declaratory judgment litigation, also filed in Bergen County. But because of the nondisclosure agreement it could not be determined whether the \$1 million and \$400,000 payments to the plaintiffs resolve the coverage litigation. ■