MANDELBAUM BARRETT PC
ATTORNEYS AT LAW

Elder Law, Probate Litigation and Special Needs Planning

January 2026 Newsletter

When DNA Tests Meet Estate Plans: Surprise Heirs and the Legal Fallout

For many families, at-home DNA testing kits like 23andMe and Ancestry.com have provided fascinating insights into ancestry and genetic health. But for those of us practicing Elder Law and Estate Administration, they've also introduced a new, and increasingly common, complication: previously unknown relatives emerging after someone passes away and asserting a claim to the estate.

If you're administering a loved one's estate and suddenly receive outreach from a "newly discovered" cousin, half-sibling, or even biological child, you are not alone. And while the emotional shock can be significant, the legal implications can be even more complex.

As Elder Law attorneys, here's what we're seeing and what you need to know.

The Rise of the Surprise Heir

Consumer genetic testing has made it simple and inexpensive for people to uncover biological connections their families never knew existed. These revelations often involve circumstances such as:

- Children born from past relationships
- Children conceived through fertility treatments or anonymous donors
- Misattributed parentage
- Long-hidden adoptions or family secrets

Once a genetic connection is discovered, some feel entitled, legally or morally, to a portion of an estate. This creates issues for executors and for families who thought their loved ones' affairs were settled.

Do Surprise DNA Relatives Have a Legal Right to Inherit?

The answer depends on several factors, and this is where an Elder Law attorney becomes essential.

1. Was There a Valid Will?
If the decedent had a properly drafted and executed will, the named beneficiaries generally control. A biological connection alone is not enough to override a will, absent fraud, undue influence, or grounds to challenge the document. Some jurisdictions, however, have statutes that provide for afterborn children (i.e. children born after a will was signed), which could impact the manner in which an estate is distributed.

2. Are They a Legal Child Under State Law?
The status of a "child" for inheritance purposes depends on the law of the state where the estate is administered. Some states:

- Recognize nonmarital biological children
- Require legal acknowledgment during life
- Treat adopted children as full heirs
- Have specific rules for children conceived with donor sperm or eggs

A DNA match may prove biology, but it does not automatically create inheritance rights. It does, however, raise issues as to whether biological children are intestate heirs in the absence of a will.

3. Did the Decedent Know About or Acknowledge the Person?
Some claims depend on whether the parent-child relationship was:

- Established legally
- Acknowledged voluntarily
- Supported financially

Surprise discovery after death makes this more challenging.

4. What Assets are at Issue?
Certain assets bypass probate entirely—such as joint accounts, retirement accounts with beneficiaries, and life insurance. Genetic heirs typically cannot claim these, regardless of DNA.

Challenges Executors Are Facing

Executors have a fiduciary duty to:

- Identify and notify legal heirs
- Administer the estate in accordance with state law
- Distribute assets appropriately
- Avoid personal liability

When an unexpected heir appears, it can result in:

- Delays in probate
- Formal kinship hearings
- Additional legal fees
- Family tensions or disputes
- Pressure to settle even meritless claims

Executors must proceed carefully. Good intentions or informal agreements can create liability.

How Families Can Protect Themselves, Before and After Death

For Individuals Creating an Estate Plan

- Update your will regularly, especially after major life events.
- Be explicit about who you wish to include—or exclude—from your estate.
- Consider a self-proving affidavit or video to deter challenges.
- For sensitive family circumstances, speak with an Elder Law attorney confidentially about how best to document intent.

For Executors Handling a Loved One's Estate

- Do not ignore or dismiss claims—even if they seem outrageous.
- Do not communicate informally with potential heirs without counsel.
- Seek guidance before releasing information or negotiating.
- Document every step you take.

A surprise claim does not mean the person is entitled to anything, but it needs to be handled correctly to protect the estate and yourself.

The Human Side: Emotional Complications

Beyond the legalities, the discovery of new biological relationships can reopen grief, spark distrust, or create painful questions about identity and family history. Executors often find themselves trying to manage not only the legal process but also the emotions of relatives who feel blindsided.

The intersection of genetic testing and estate law is still evolving. But one thing is clear: the ease of discovering biological relationships has introduced new challenges for estate planning and administration.

If you are facing a surprise heir claim or want to ensure your own estate plan is carefully crafted to prevent future disputes, **the Elder Law attorneys at Mandelbaum Barrett PC** are here to assist. With sound guidance, families can confidently navigate these uncharted waters and protect both their loved ones and their legacies

Can a Guardianship Be Reversed? Understanding Restoration of Capacity in NJ

In New Jersey, being declared incapacitated does not necessarily mean that a person will remain under guardianship forever. Circumstances can change, and when they do, the law provides a path for individuals to regain some, or all, of their decision-making rights. This process is known as a Restoration of Capacity action.

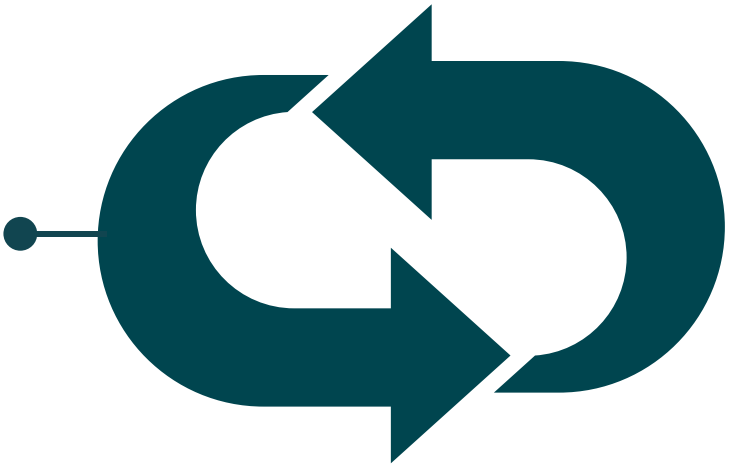
The application for the restoration of capacity must be commenced by Verified Complaint and is typically initiated by the person under guardianship. The Complaint must be supported by two physician certifications, setting forth facts evidencing that the previously incapacitated person is no longer is incapacitated or has returned to partial capacity. In other words, the applicant may ask the court to either end the guardianship entirely, or modify it, allowing them to regain certain rights while keeping limited support in place.

The Court is required to conduct a hearing and take testimony in open court, with or without a jury. The Court may render judgment that the person remains incapacitated, has regained partial capacity, or has been fully restored to capacity. If the judge finds that a change has occurred, the Court has wide discretion in tailoring the future guardianship arrangement or eliminating it altogether.

All people who may have an interest in the guardianship must be notified of the application, including the current guardian, family members, and other relevant parties. The court may also appoint a guardian ad litem, whose role is to evaluate the situation independently and provide a written report, recommending what they feel is in the individual's best interests.

Although the burden of proof rests with the applicant to show that the guardianship should be changed or terminated, New Jersey law does not clearly define the evidentiary standard for this type of action. Courts aim to evaluate each case through a lens of dignity, autonomy, and the individual's best interests. By providing a formal pathway for restoring rights, New Jersey Courts affirm that capacity is not fixed and empower individuals to regain decision-making authority if their abilities improve.

The Elder Law and Special Needs attorneys at Mandelbaum Barrett PC are here to answer any questions you may have.



Social Security Disability Benefits Will Increase in 2026: Here's What SSI and SSDI Recipients Need to Know

Americans who rely on Social Security disability programs will see a slight increase in their monthly payments for 2026. Each October, the Social Security Administration (SSA) announces the Cost-of-Living Adjustment (COLA) for the following year, a process designed to ensure that benefits keep pace with inflation.

For 2026, the COLA will rise by 2.8%, compared to a 2.5% increase in 2025.

What Is the COLA and Why Does It Matter?

The COLA is tied to the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). When inflation increases, everyday costs—such as food, housing, and transportation—rise. The COLA helps ensure Social Security benefits maintain their purchasing power over time.

In its announcement, SSA Commissioner Frank J. Bisignano emphasized the importance of the adjustment:

"Social Security is a promise kept, and the annual cost-of-living adjustment is one way we are working to make sure benefits reflect today's economic realities to provide a foundation of security. The cost-of-living adjustment is a vital part of how Social Security delivers on its mission."

SSI Benefits Increase for 2026

Many people with disabilities rely on Supplemental Security Income (SSI) for essential support. In 2026:

- Individuals will see their maximum federal SSI payment increase from $967 to $994 per month — a $27 increase.
- Eligible couples will see an increase from $1,450 to $1,491, a $41 increase.

SSI recipients will see the increase reflected in their December 31, 2025 payment, which counts as the first payment for January 2026.

Currently, about 7.5 million Americans receive SSI benefits.

SSDI Benefits Increase for 2026

Those who receive Social Security Disability Insurance (SSDI) will also benefit from the 2.8% COLA increase.

While SSDI payment amounts vary based on each individual's lifetime earnings before disability, the SSA estimates that:

- The average monthly SSDI payment will rise from $1,586 in 2025 to $1,630 in 2026 — an increase of $44.

It's important to note that SSDI benefits are calculated differently for every recipient and depend on work history and contributions to Social Security.

What This Means for Disability Beneficiaries

While the 2.8% COLA is modest, it provides some relief as prices for housing, food, and medical care continue to fluctuate. The SSA's annual adjustment ensures that Americans living on fixed incomes—especially disabled individuals—are better protected against rising costs.

For many families, these increases help cover essentials and maintain economic stability.

Need Help Understanding Your Benefits?

If you have questions about SSI, SSDI, eligibility, appeals, or how the COLA may affect your benefits, our team can help. Understanding the system can be complex, but you don't have to navigate it alone.

Contact the Elder Law and Special Needs team at Mandelbaum Barrett PC to learn more about your rights and options when it comes to Social Security disability benefits.

From Golden Years to Working Years: Why Retirement Looks Different Now

A growing number of Americans are working well past traditional retirement age – sometimes out of financial necessity, but often out of purpose, connection, and passion. Working into your 70s, 80s, and beyond brings unique challenges and opportunities that require thoughtful financial, health care, and estate planning to protect both income and independence.

A New Era of "Retirement"

The concept of retirement is evolving. What was once considered a time for relaxation and leisure has, for many, become a period of continued productivity.
Today, nearly half a million Americans over age 80 are still working, and the 75-plus demographic is the fastest-growing segment of the workforce.

For some, the decision is driven by financial need — rising health care costs, longer lifespans, and inflation have stretched savings thin. For others, it's about staying engaged, connected, and purposeful.

A 2024 Bankrate survey found that 57% of U.S. workers feel behind on retirement savings, and among Baby Boomers, two-thirds worry they won't have enough to retire comfortably. Meanwhile, a Federal Reserve report showed that 46% of American households have no retirement savings at all.

In this context, "working retirement" isn't an oxymoron — it's the new normal.

Why More Seniors Are Staying in the Workforce

Research and real-world stories highlight six major reasons seniors continue working well past traditional retirement age:

1. **Financial Pressure –** Social Security benefits often fall short of covering living expenses, and savings may not stretch far enough due to rising costs and market fluctuations.
2. **Purpose and Connection –** Work provides structure, community, and a sense of value that's hard to replicate in retirement.
3. **Health and Longevity –** Staying active, mentally and physically, can promote wellness and cognitive sharpness.
4. **Health Coverage –** Continued employment may preserve access to employer-sponsored health insurance or supplemental coverage beyond Medicare.
5. **Passion –** Some simply love their work and can't imagine stopping.
6. **Employer Demand –** Labor shortages and the value of experience have encouraged many companies to retain or recruit older workers.

The trend is also supported by more flexible job opportunities, remote work options, and part-time consulting — allowing seniors to transition more gradually rather than retiring abruptly.

Key Planning Considerations for Seniors Still Working

Working late into life can be rewarding, but it requires careful coordination across financial, health, and legal areas.

1. Financial Planning Implications

- Tax Impacts: Additional income can make a larger portion of your Social Security benefits taxable — up to 85% in some cases.
- Required Minimum Distributions (RMDs): Beginning at age 73, RMDs from most retirement accounts are required, even if you're still employed (with limited exceptions).
- Pension Reductions: Some pension plans reduce benefits if you continue working; others allow continued accrual.

Planning Tips:
- Reassess your tax situation annually.
- Coordinate withdrawals with earned income to minimize tax exposure.
- Consult your HR department or plan administrator about how continued work affects benefits.

2. Health Care and Long-Term Care

- Medicare Coverage Gaps: Medicare doesn't cover long-term custodial care; supplemental policies or long-term care insurance may be needed.
- Employer Coverage Coordination: Understand how employer health plans interact with Medicare to avoid costly enrollment penalties.
- Planning for Incapacity: Illness or sudden disability becomes more likely with age — make sure your legal documents are current.

Planning Tips:
- Confirm your Medicare and supplemental coverage strategy.
- Review and update health care proxies and powers of attorney.
- Explore hybrid insurance policies that combine life and long-term care coverage.

3. Estate and Business Planning

A longer working life often means a more complex financial picture. Assets grow, goals evolve, and estate documents need to keep up.

- Update Wills and Trusts: Reflect new assets, relationships, and charitable goals.
- Plan for Business Succession: If you own a business, clarify who will take over and how ownership will transfer.
- Balance Legacy and Lifestyle: Align current spending needs with your long-term legacy goals.

Planning Tips:
- Review your estate plan every few years or after major life changes.
- Coordinate estate, business, and tax planning with professionals.
- Communicate your intentions with family to prevent future disputes.

4. Legal and Policy Awareness

- Age Discrimination Protections: Know your rights under the Age Discrimination in Employment Act (ADEA). Keep records if issues arise.
- Social Security & Medicare Rules: Continued earnings can affect benefit eligibility and timing.
- Social Security Reform: With funding challenges looming, future benefit structures may change — proactive planning is key.

Planning Tips:
- Stay informed about benefit program updates.
- Document any workplace discrimination.
- Seek guidance from an elder law attorney or financial advisor.

Real-World Stories: Work as Purpose

While some seniors continue working out of financial need, many also describe it as their lifeline.
A 101-year-old featured on TODAY.com said she continues working “because I love being around people.” Another woman, 88, told reporters she works full-time to “set a good example” for her grandkids.

The takeaway? Work can provide meaning, not just money, well into later life.

Planning for an Extended Career: A New Kind of Retirement

The traditional notion of retiring at 65 is fading. Instead, Americans are crafting individualized retirements that blend work, purpose, and flexibility.

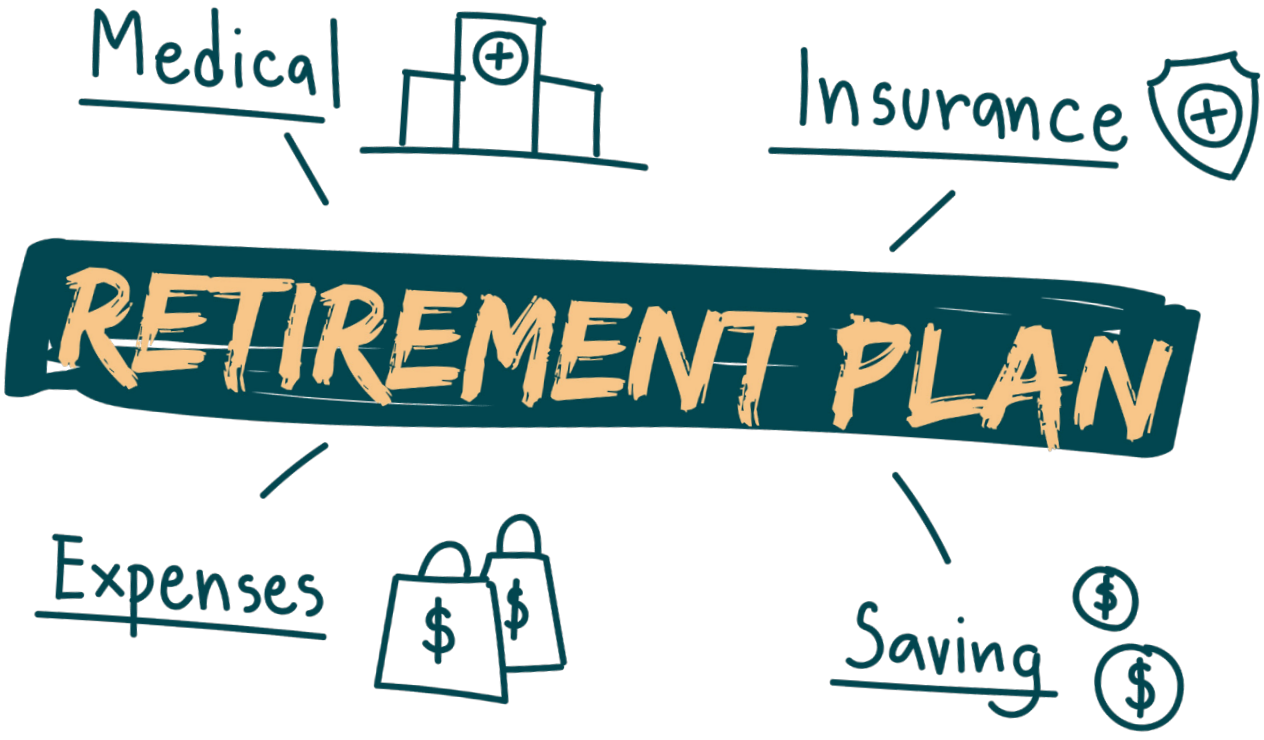
If you or a loved one are working well into your 70s, 80s, or beyond, proactive planning is essential. From managing Social Security and Medicare to revisiting estate documents, each detail helps ensure that working later in life supports, rather than complicates, your long-term goals.

At this stage, retirement isn’t an age, it’s a transition. And with thoughtful preparation, it can be both productive and fulfilling.

Need Guidance on Working into Retirement?

Our Elder Law attorneys at Mandelbaum Barrett PC help seniors, and their families navigate the legal, financial, and health care complexities of working beyond retirement age.

Schedule a consultation to review your planning strategy today.



ZAPPOS CEO'S MYSTERY WILL: A CAUTIONARY TALE ABOUT ESTATE PLANNING

Shawna A. Brown, Counsel in the **Elder Law Practice Group,** examines the unfolding estate dispute of Zappos founder Tony Hsieh and the important estate planning lessons families can take away from it.

A FORTUNE COMPLICATED BY A MISSING WILL

The facts surrounding the Estate of Tony Hsieh, the visionary entrepreneur who sold Zappos to Amazon for over $1 billion, highlight the importance of proper will storage and estate administration. When Hsieh passed away in 2020, no will was located, meaning he was believed to have died intestate. Under intestacy, assets are distributed according to state law rather than the individual's personal wishes expressed in a will. A court appointed Hsieh's father as administrator of his estate.

Five years later, Hsieh's original will was discovered among the belongings of a man he had provided it to for safekeeping. That individual had developed dementia, was unaware of Hsieh's passing and eventually died. His grandson uncovered the will, which provided instructions for the distribution of Hsieh's estate. A legal dispute is now underway to remove Hsieh's father as administrator and enforce the terms of the newly found will. The case demonstrates how easily even a well-planned estate can become complicated when a will is misplaced or inaccessible.

LESSON ONE: PROPER WILL STORAGE IS ESSENTIAL

Even the most carefully drafted will cannot protect your estate if it can't be found. Secure and accessible storage is critical to ensure that your final wishes are carried out as intended.

Good storage options include:

- Your attorney's will vault. Many law firms, including Mandelbaum Barrett PC, maintain fireproof vaults to safeguard clients' original wills and keep a record of what's stored.
- A fireproof home safe. If kept at home, store the will in a fireproof and waterproof container, and avoid locations like basements or those prone to flood, fire or other damage.
- Trusted access. Make sure your executor or another trusted individual knows where the will is stored and how to access it when the time comes.
- Safe deposit box. This is not a good place to store your will. This is because upon your death, your executor will not be able to access a box in your name without court intervention.

LESSON TWO: WHEN A WILL IS FOUND LATER

If a will is discovered after someone's death, it is not necessarily too late to act. The document can still be submitted to the court for probate, though the process may be complicated and costly.

Courts will assess whether the will is valid and whether the estate needs to be reopened. The longer the delay or the more unusual the circumstances (such as the discovery of Tony Hsieh's will years later) the greater the chance of dispute among heirs and beneficiaries.

PLANNING FOR CERTAINTY AND PEACE OF MIND

Tony Hsieh's case underscores that estate planning is not just about drafting documents—it's about ensuring those documents are accessible and enforceable. Whether your estate is modest or substantial, proper planning can prevent confusion, delay, and unnecessary legal conflict.

Our Elder Law team helps clients prepare, protect, and preserve their estate plans so that their legacies are honored exactly as intended.

Watch the full YouTube video here.

Ivey, Barnum & O'Mara LLC Attorneys Join Mandelbaum Barrett PC in a Strategic Talent Collaboration, Expanding Footprint and Capabilities

Mandelbaum Barrett PC has announced that 24 attorneys and staff of **Ivey, Barnum & O'Mara**, LLC ("IBO"), one of Greenwich, Connecticut's oldest and most respected law firms, have joined Mandelbaum Barrett PC effective January 1, 2026. The addition of IBO attorneys expands Mandelbaum Barrett PC's geographic reach into New England and provides expanded resources to the Connecticut firm's clients. Further, it strengthens both firms' capabilities across several practice areas, including real estate, trusts and estates, franchise law, litigation, and personal injury.

"This strategic expansion of Mandelbaum Barrett PC into Connecticut and the subsequent growth of our practice now allows us to serve both corporate and individual clients in the region with even greater depth, agility, and personalized service," said William S. Barrett, CEO of Mandelbaum Barrett PC. "But, just as important, the attorneys and staff of Ivey, Barnum & O'Mara who have joined Mandelbaum Barrett bring a shared legacy of excellence, community leadership, and client-first values to our firm."

Ivey, Barnum & O'Mara, LLC, established in 1950, is the largest law firm based in Greenwich and is widely respected for its expertise in real estate, trusts and estate planning, business, employment, litigation, and personal injury law. Many of the attorneys from IBO who have joined Mandelbaum Barrett PC have also served their communities in leadership roles, ranging from the U.S. Congress and the U.S. Senate to serving as Probate Judge and President of the Connecticut Bar Association.

Ivey, Barnum & O'Mara Partner and Management Committee Member Stephen G. Walko says, "Our firm was built in Greenwich, and our roots here in Fairfield County run deep. This partnership represents an opportunity not only to expand our capabilities and resources for our growing client base here, but also to preserve everything that has defined our practice locally. We are proud to take this next step with a firm that appreciates the importance of community grounded in places like Greenwich.

Fairfield County is home to many of the world's leading financial and professional services firms, and most recently, a growing information services sector. It also ranks among the wealthiest counties in the United States.

"The addition of these attorneys to Mandelbaum Barrett marks a significant milestone in our firm's strategic and steady growth from a small practice founded in 1930 with just one attorney to now 150 attorneys beginning in 2026," Chairman Barry R. Mandelbaum added. "It is certainly an exciting way to start our 96th year and testimony to both the firm's impact and the culture we have built over the years." Mandelbaum's father, Irving Mandelbaum, founded the firm in Newark, NJ.

"Our attorneys are excited to join Mandelbaum Barrett PC and bring even more value to our clients," said Steven Steinmetz, also a partner and member of the Management Committee of Ivey, Barnum & O'Mara, LLC. "This move allows us to expand our capabilities under the Mandelbaum Barrett name, while staying true to the relationships and values that have defined our firm for 75 years. Clients of IBO will continue to work with their trusted attorneys, who are now part of a broader team of professionals offering a more extensive range of services. This will ensure seamless, continued access to high-quality, personalized legal counsel as part of Mandelbaum Barrett's enhanced resources and reach."

We are thrilled to welcome **Ronald L. Davison** as a Partner in our Elder Law, Special Needs, and Estate Litigation Practice Groups at Mandelbaum Barrett PC.

With more than 50 years of experience, Ronald represents clients in estate, trust, and guardianship matters, including disputes involving trusts, wills, fiduciaries, and asset protection. His practice blends elder law and litigation, guiding families, fiduciaries, and beneficiaries through estate and trust issues with clarity and care.

Ronald has served as a court-appointed estate administrator, receiver, guardianship attorney, and attorney-trustee, and has lectured widely on will contests, trust and gift challenges, and business valuations in estate and family business disputes. He has also supported the legal community as a volunteer mediator and through appointments by the New Jersey Supreme Court as Chair of both the District Ethics Committee and the District Fee Arbitration Committee.

Ronald earned his B.A. with high honors from Rutgers University - New Brunswick and his J.D. from Rutgers Law School in Newark where he was Articles Editor of the Law Review. He is admitted to practice before the New Jersey State Courts and the U.S. District Court for the District of New Jersey, the U.S. District Court for the Southern District of New York, the U.S. Court of Appeals for the Third Circuit, and the U.S. Tax Court.

Learn more about Ronald and his practice here. He can be reached at rdavison@mblawfirm.com or 973-295-3654.

Shawna Brown, Elder Law Partner at Mandelbaum Barrett PC, led an informative Estate Planning session at the Union Public Library

Shawna discussed key topics including wills and living wills, how to ensure your assets and finances are properly protected, and what you need to know to make informed estate planning decisions.

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We're proud to have Elder Law attorney Dan Stone recognized for his responsiveness, dedication, and true partnership with clients. Providing trusted guidance every step of the way is what we strive for.

Team Mandelbaum

Make sure to check out our new resources section at the bottom of the Elder Law and Special Needs pages on our website.

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