



Elder Law and Special Needs Planning

March 2025 Newsletter

2nd Annual

Elder Law Day

focusing on

Planning for Special Needs Families

05.07.25

**Park Avenue Club
Florham Park**

8 AM- 12 Noon

CLE, CFP & CPE credit information coming soon!

Save the Date!

Back by popular demand!

The 2nd Annual Elder Law Day hosted by the Elder Law & Special Needs Practice Groups at Mandelbaum Barrett PC is set for **May 7, 2025** at the **Park Avenue Club**.

This year's program will focus on **Planning for Special Needs Families**, featuring expert speakers and offering CLE, CFP, and CPE credits.

Stay tuned for more details, but don't wait to register.

Seats are limited – click below to reserve your spot today!

REGISTER NOW 

New Jersey Officially Introduces Driver's License Notation for Autistic Motorists

Autistic motorists in New Jersey, as well as their parents/guardians, are now able to request that their autism diagnoses be notated on their driver's license. This notation will appear as a code in the "restrictions" column of the driver's license. In doing so, New Jersey joins 12 other states that offer similar driver's license notations.

National autism research reveals that persons with autism and other developmental disabilities are more likely to encounter law enforcement than the general population. The actions or reactions of people with autism can be misinterpreted by the police and other first responders. Accordingly, this new voluntary program is intended to alert police officers of the driver's disability during traffic stops and avoid misunderstandings. Additionally, New Jersey police departments will be provided with written guidance, instructing officers how to effectively communicate with people with autism or other disorders involving speech, language, or hearing.

In addition to the notation on their driver's license, autistic drivers will also be able to request a "Pink Card," to carry along with their license or ID card, describing their diagnosis. The Card includes a designation section, with boxes to check such as "autism spectrum," "communication disorder," and "disorder hearing aid." The card also has a restriction section, with boxes such as "hearing impaired," "mechanical aid," "prosthetic aid," and more.

Autism advocates have embraced the new law. From their perspective, the new law provides autistic drivers with a direct and simple way to communicate their diagnosis to an officer, while also providing officers with tools to manage the interaction safely and sensitively.

People with autism or a communication issue can request to have their license updated at any state Motor Vehicle Commission licensing Center. Applicants will need to bring the six points of ID required for a license and fill out an application form.

We recommend checking the New Jersey Department of Motor Vehicle website for the latest updates as the new program is implemented across the state.



What Happens When a Minor Child Receives an Inheritance in NJ?

Unintended consequences often occur without proper estate planning. This is common when minor children receive an inheritance. Since minors cannot possess assets directly, the inheritance must be held on behalf of the minor until he or she attains the age of majority. A parent, however, does not automatically have the right to hold the inheritance on behalf of a child. Instead, the parent must formally qualify as guardian or file an application with the Court to establish a trust. Otherwise, the inheritance will be held by the Surrogate's Court until the child turns age 18 years. These options are discussed in more detail below.

1. Funds May Be Held in the Surrogate's Intermingled Trust Fund

In New Jersey, if a minor inherits money, the funds are often held in the Surrogate's Intermingled Trust Fund until the child turns 18. This is governed by **N.J.S.A. 3B:15-16**. During this time, access to the funds is limited, and any withdrawal requires a formal application to the court. The purpose of this restriction is to safeguard the child's inheritance until they reach the legal age of majority. However, the process of petitioning the court to release funds can be time-consuming and requires demonstrating that the withdrawal is in the minor's best interests.

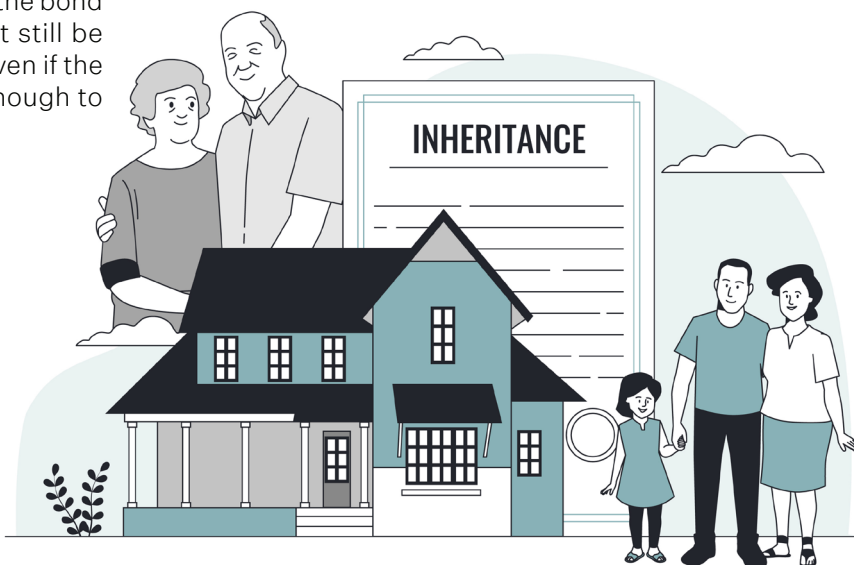
2. Parents Can Qualify as Guardians Through the Surrogate's Court

Instead of having the funds held by the Surrogate's Office, a parent may qualify as a guardian of the minor's estate. (This is counterintuitive since the parent is the natural guardian of the minor). Nevertheless, this process involves filing an application with the Surrogate's Court and posting a bond. Once appointed, the parent/guardian may deposit the funds in a financial institution of his or choosing, manage the funds and use money for the minor's benefit without requiring court approval for each expense. This option provides greater flexibility for covering costs such as education, healthcare, or other needs, while still ensuring oversight and accountability through the bond requirement. The inheritance, however, must still be distributed to the child upon attaining age 18 even if the parent does not believe the child is mature enough to receive the funds.

3. Establishing a Trust for Long-Term Management

In some cases, it may be beneficial to create a trust for the minor's inheritance. A parent, guardian, or interested party can apply to the court to establish a trust under **N.J.S.A. 3B:12-54.1**. Unlike funds held in the Surrogate's account, (or the parent as guardian) a trust can extend beyond the minor's 18th birthday, allowing for more tailored management of the inheritance. For example, the trust could distribute funds at specific milestones, such as graduating from college or reaching age 25. An application to the Superior Court of New Jersey is required to establish and fund the trust.

The above options could all be avoided through proper estate planning – i.e. establishing a testamentary trust for the benefit of a minor in one's Will; and designating the trust as beneficiary of non-probate assets (such as life insurance policies and retirement accounts). **The Elder Law and Estate attorneys at Mandelbaum Barrett PC** can help parents or guardians navigate these issues and ensure the minor's inheritance is protected and used appropriately for his or her benefit.



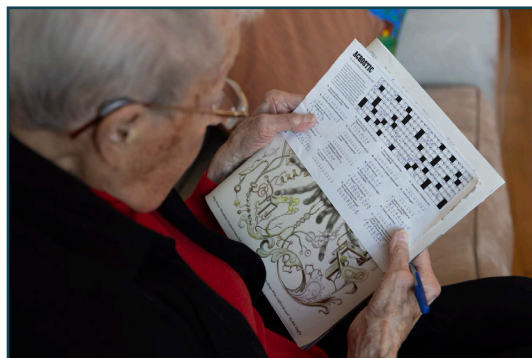
Lessons in Longevity: Reflections on Elder Law, Complex Relationships, and a 102-Year-Old Inspiration



Practicing in the field of elder law and probate litigation is like a prism that allows us to see many positive and negative situations that are the product of complex relationships and unexpected situations. Occasionally, we are fortunate to meet exceptional and inspirational people who impact our lives and careers.

Richard Miller, Esq., Elder Law Chair at Mandelbaum Barrett PC would like to share an article that recently appeared on the front page of **The Star-Ledger** featuring a friend of his, who is now 102 and going strong. She is truly an inspiration for living a productive and meaningful life.

[Read the full article here.](#)



*"I live in a state of surprise.
Every day is a new day.
I don't take it for granted at all."*



UNDERSTANDING GUARDIANSHIP: LESSONS FROM WENDY WILLIAMS' LEGAL BATTLE

It is fascinating when the types of cases we handle in our practice come to life in the media. Recently, former talk show host **Wendy Williams** has been the subject of

media attention because she has a court-appointed guardianship. Her case has sparked debate about guardianships and the freedom a ward retains.

WHAT HAPPENED TO WENDY WILLIAMS?

A New York court appointed a guardian for Ms. Williams after determining she was incapacitated and unable to manage her affairs. As a result, the guardian is now responsible for making crucial financial, medical, and personal decisions on her behalf. Ms. Williams, however, claims she has capacity and expresses feelings of isolation, even comparing her experience to being in prison. She stated she lacks access to communicate freely with others, which has led her fans to rally behind her in a “FreeWendy” movement similar to Britney Spears’ legal battle over her conservatorship.

KEY QUESTIONS ABOUT GUARDIANSHIP

Cases like Ms. Williams’ raise important questions:

- Can a guardian dictate every aspect of the ward’s life?
- Does the ward have any rights or input in decision-making?
- Can a guardian prevent the ward from seeing family or friends?

These are concerns we frequently address in our elder law practice.

UNDERSTANDING GUARDIANSHIP AND ITS PURPOSE

Guardianship is typically sought when an individual has a cognitive impairment or mental illness preventing them from managing their affairs and making informed decisions. If appointed, a guardian is often empowered to make legal, financial, and healthcare decisions for the individual. However, courts aim to establish the **least restrictive** form of guardianship possible, preserving the ward’s autonomy where feasible. The court may allow the ward to retain rights such as voting or choosing social and religious activities.

A guardian’s role is not to completely control the ward’s life but rather assist where needed. Even if a guardian has broad authority, courts require consideration of the ward’s preferences. The guardian is expected to promote the ward’s dignity, privacy and self-direction whenever possible.

CHALLENGES IN WENDY WILLIAMS’ CASE

Wendy Williams’ guardian is a court-appointed attorney who did not have a prior relationship with her. She was appointed after a financial institution sought the appointment of a guardian for Ms. Williams due to concerns about her financial well-being. This dynamic likely complicates the relationship between Ms. Williams and her guardian.

While the guardian may be protecting Ms. Williams from potential financial exploitation, she has raised valid concerns about the guardianship. For example, her request to visit her father for his 94th birthday was initially denied but later granted. This request is an example of a self-directed activity, and guardians should permit those so long as they are in the ward’s best interests.

HOW WE CAN HELP

Navigating guardianship can be overwhelming for families. Whether you seek guardianship for a loved one, are challenging an existing guardianship or simply want to understand your own rights, our experienced elder law attorneys can provide guidance. Every situation is unique, and we are here to help ensure the best possible outcome for you and your family.

If you have questions about guardianship and how it may impact you or a loved one, **contact us today to discuss your options.**

COMMON PITFALLS IN NEW JERSEY GUARDIANSHIP CASES & HOW TO AVOID THEM

Filing for guardianship in New Jersey can be a complex legal process with many crucial requirements. **Donald A. Dennison** and **Dan Stone**, associates in the **Elder Law Practice Group** at Mandelbaum Barrett PC, recently discussed some of the most common mistakes individuals make when pursuing guardianship. Understanding these pitfalls can help ensure a smoother process and avoid unnecessary legal complications.



FAILURE TO PROPERLY NOTIFY ALL PARTIES

One of the most significant mistakes is failing to provide proper notice to all required parties. Under New Jersey law, the alleged incapacitated person (AIP) must be notified, along with their next of kin, including parents, siblings, spouse, and children. Failure to notify all required parties can lead to legal disputes or even the removal of an improperly appointed guardian. In a recent case, Mandelbaum Barrett PC successfully represented a sibling who had not been notified, ultimately resulting in the removal of the original guardian.

INADEQUATE MEDICAL EVIDENCE

A guardianship complaint must include comprehensive medical evidence proving the AIP's incapacity. This typically requires a physician or psychologist's certification demonstrating the AIP's inability to make decisions due to a medical or mental health condition. A vague or incomplete certification can delay proceedings or lead to dismissal. Depending on the type of guardianship, additional documentation, such as an Individualized Education Program (IEP) for Division of Developmental Disabilities (DDD) guardianships, may also be required.

OVERLOOKING THE AIP'S PREFERENCES

Courts in New Jersey consider the AIP's preferences when appointing a guardian. If the AIP has executed estate planning documents like a living will or power of attorney, these can provide guidance on their wishes. Even if an individual has cognitive impairments, their preferences should be respected unless they are clearly against their best interests. Courts have emphasized that an AIP's wishes should not be dismissed simply due to forgetfulness or a disability.

IGNORING LESS RESTRICTIVE ALTERNATIVE

Guardianship is not always the only or best option. Less restrictive alternatives, such as conservatorships (which focus solely on financial matters and require the AIP's consent) or limited guardianships (which grant authority over specific areas while preserving certain decision-making rights), may be more appropriate. Every case is unique, and attorneys must carefully evaluate whether a full guardianship is truly necessary.

NEGLECTING BONDING REQUIREMENTS

When a guardian is appointed, the court may require them to secure a bond—essentially an insurance policy to protect the AIP's assets. This financial obligation can be substantial, depending on the AIP's estate and the relationship between the guardian and the AIP. If a guardian is unable to obtain a bond due to their own financial circumstances, it can create significant delays or even prevent their appointment.

YOU ARE INVITED!

THE EVOLVING LANDSCAPE OF SENIOR LIVING

WEDNESDAY, MARCH 26, 2025 11:00 AM TO 2:00 PM

LESTER SENIOR LIVING, 903 RT 10 EAST, WHIPPANY NJ

This panel discussion will provide an overview of the current senior living landscape and highlight factors impacting our elderly communities from care advancements to changes in care models to legal frameworks, and senior healthcare in general.

JOIN OUR PANEL OF EXPERTS

Discussion highlights:

- Aging in place or transitioning to assisted living or memory care
- What families need to know about regulations
- Integrating mental health services with physical care for a holistic approach

Lunch will be provided.

Who should attend: Elder Healthcare Professionals, Senior Care Advisors, Local and Municipal Senior Health Managers, Elder Services Providers

To attend, call Shelly-Ann 973-929-2725 or email Shelly-Ann@jchcorp.org or email pamelaa@jchcorp.org



SEATING IS LIMITED. Please use the QR code to register by Friday, March 14, 2025.

Organized and presented by:



Rani Gundavarapu, MD, FACP
Internal Medicine, Geriatrics,
Palliative Care



Richard Miller, ESQ
Partner
Mandelbaum Barrett PC Atty at Law



Trish Barbosa, RN
President
Peace Aging Care Experts, LLC



The Alliance
of Private Special Education
Schools of North Jersey



Get Ready for the Spring Family Fun Fair!

Our Special Needs Practice Group is thrilled to be participating in...**The Alliance of Private Special Education Schools of North Jersey's Spring Family Fun Fair!**

Date: Saturday, March 22, 2025

Location: UCNJ Union College of Union County - Cranford Campus

This exciting event is designed for families and students with special needs, featuring games, activities, and valuable resources to help support and connect our community. It's a day full of fun, learning, and meaningful connections and we'd love for you to be part of it!

Bring the whole family and stop by our table to meet our team, learn more about our services, and enjoy a fantastic day together.

[Reserve your FREE tickets now!](#)





Our Mandelbaum Barrett PC Special Needs Practice Group was Honored to Participate in the Annual Ridge High School Transition Fair

Shawna Kirchner Brown, Esq. spoke with families about the importance of special needs trusts, guardianships, and long-term care planning - critical steps in securing a stable future for loved ones with special needs.

A big thank you to everyone who attended and helped make this event a success!

Please Join Us in Welcoming Jeffrey J. Trapanese as a Partner in our Elder Law, Special Needs, and Estate Litigation Practice Groups at Mandelbaum Barrett PC!



Jeff brings three decades of diverse legal experience, with a focus on probate litigation, including guardianships, estate and trust disputes, and estate planning. He also has extensive expertise in civil litigation, general equity litigation, real estate transactions, and fiduciary services, serving as Administrator, Trustee, and Guardian in complex matters. Jeff's dedication to the legal field is reflected in his past leadership roles, including as President of the Passaic County Bar Association and Chair of the District XI Ethics Committee.

He earned his Bachelor of Arts degree from the University of Delaware and his Juris Doctor from the Touro University Jacob D. Fuchsberg Law Center at Touro College and he is admitted to practice in New Jersey.

THANK YOU

Guardianship challenges can be complex and emotionally taxing, which is why having the right legal team by your side makes all the difference. We're honored by this incredible testimonial and grateful for the trust our clients place in **Richard Miller, Esq.** and our Elder Law team at Mandelbaum Barrett PC.



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Testimonial

★★★★★

Seriously though, Guardianship challenges are no joke. This firm and Richard Miller's Elder Law team, is the best there is in the tri-state area. Don't try and go it alone and NEVER without a CELA by your side (Certified Elder Law Attorney).

PSA, if your end-of-life documents were created by an estate attorney (not a CELA) please have them reviewed by one. I can guarantee there are corrections needed and many that would cost you thousands if you didn't update.

Wendy L

MB
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BARRETT PC

Team Mandelbaum

FOLLOW US ON SOCIAL MEDIA!



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