



Elder Law, Probate Litigation and Special Needs Planning

September 2025 Newsletter



Don't Rely on Medicare or Medicaid for Your Long-Term Care: What Every Family Needs to Know

As Americans live longer than ever before, planning for long-term care (LTC) is no longer optional—it's essential. Yet, many people still mistakenly believe that Medicare or Medicaid will be there to cover the costs when the time comes.

What Is Long-Term Care?

Long-term care includes more than nursing home stays—it also involves help with daily activities like bathing, dressing, cooking, and medication management. These services may be provided at home, in assisted living, or in a skilled nursing facility. While most people prefer to remain at home, LTC services—whether paid or provided by family—are often necessary for maintaining independence and safety.

The Medicare Myth

A recent survey found that 58% of Americans mistakenly believe Medicare will cover their long-term care expenses. In reality, Medicare only covers short-term, skilled care following a hospital stay, and only up to 100 days. After just 20 days, co-pays apply—and it won't pay a cent toward non-skilled, custodial care like help with dressing or bathing.

Medicaid: A Safety Net with Strings

While Medicaid can cover long-term care, it's not easily accessible. To qualify, you must spend down nearly all of your assets—often to poverty levels. Many people are surprised to learn that Medicaid planning can take months or even years and involves complex eligibility rules.

To make matters worse, future cuts to Medicaid funding could reduce access or quality of care. If you're relying on Medicaid to pay for long-term care in a nursing home, you may find fewer beds available or facilities operating with reduced staff and services.

Long-Term Care Insurance: Often Overlooked, Often Overestimated

Only about 3 to 4% of Americans over 50 have long-term care insurance (LTCI), often due to a perception that it's too expensive. However, many people overestimate the cost. Starting a policy between ages 50 and 55 is typically the most cost-effective window, and newer hybrid products—like life insurance with LTC riders—offer even more flexibility.

Aging in Place Isn't Free

While most people (77%) prefer to receive care at home, home safety and accessibility are frequently overlooked. Home modifications like grab bars, ramps, and walk-in showers can be expensive if not planned for. Worse, many aging adults stay in homes that aren't suitable for their future needs, which can increase fall risk and hospitalizations.

Proactive Planning Makes All the Difference

Here are some essential strategies to consider:

- **Don't assume Medicare or Medicaid will cover your care.** Educate yourself now.
- **Explore long-term care insurance** early while premiums are still manageable.
- **Consider hybrid insurance products** that combine LTC coverage with life insurance.
- **Remodel your home now** with aging in mind—before a crisis hits.
- **Consult with an Elder Law attorney** to create a long-term care and estate plan that protects your assets while meeting your needs.
- **Review your will and powers of attorney regularly** to ensure they reflect your current wishes and include key provisions for incapacity planning.

Start Planning Today—Before You Need It

Long-term care is a likely reality for many of us, but how we prepare for it can make all the difference. Whether you're 55 or 85, the best time to plan is now, while you still have time to make informed, cost-effective decisions.

At Mandelbaum Barrett PC, our Elder Law attorneys help individuals and families develop proactive, customized plans that protect assets, honor wishes, and ensure peace of mind for the years ahead. We are here to help you plan smart, age with dignity, and safeguard your future. **Contact us today!**

When Does an Agent Under a Power of Attorney Become Liable? A Cautionary Tale



August was National Make-A-Will Month, but September is a good time to revisit another key component of estate and elder planning: powers of attorney (POAs). These documents are critical tools for ensuring trusted individuals can make decisions on our behalf when we can't. But with great power comes great responsibility—and, potentially, liability.

A recent case out of Pennsylvania (*In re Beam*, July 2025) serves as a cautionary example of what can happen when an agent under a POA abuses that authority. While this case was decided under Pennsylvania law, the issues it raises are directly relevant to New Jersey residents and underscore what happens when a fiduciary breaches his or her fiduciary duty.

What Happened in *In re Beam*?

Dorothy Beam named her great-niece, Vaneeda Days, as her agent under a POA in 2016. When Dorothy moved into a nursing facility in 2018, Vaneeda began making large, unexplained withdrawals from Dorothy's accounts—over \$140,000 in total—yet failed to pay her aunt's outstanding nursing home bill. After Dorothy's death, the administrator of her estate challenged the transactions, alleging self-dealing, misappropriation, and a breach of fiduciary duty.

The lower court initially limited liability to the unpaid nursing home bill, but the Pennsylvania Superior Court reversed that decision. It found that Vaneeda failed to provide any records or explanations for the withdrawals, did not appear in court, and essentially acted in her own interest rather than Dorothy's. She was ultimately held liable for the full amount withdrawn.

What Would Happen Under New Jersey Law?

In New Jersey, agents acting under a POA are also fiduciaries. That means they have a legal duty to act in the best interest of the principal (the person who granted the power), manage finances responsibly, and avoid self-dealing or using funds for personal benefit unless specifically authorized.

Key fiduciary responsibilities in New Jersey include:

- Keeping detailed records of all transactions
- Acting with honesty, loyalty, and care
- Avoiding conflicts of interest
- Only making gifts if explicitly permitted in the POA

If an agent under a POA in New Jersey fails to uphold these duties, they can be:

- Removed by the court
- Ordered to provide an accounting
- Surcharged (i.e., required to repay) for funds improperly spent
- Held personally liable for financial harm

The court may infer wrongdoing if the agent cannot, or refuses to, explain or document how the principal's funds were used. In fact, a New Jersey court could come to the same conclusion as Pennsylvania did in *In re Beam* and hold the agent liable for the full amount of unexplained or unauthorized transactions.

How to Protect Yourself or a Loved One

Whether you're appointing an agent or serving as one, these steps can help reduce the risk of abuse or allegations of it:

- Work with an experienced Estate or Elder Law attorney to draft a clear, detailed POA that outlines gift-giving authority, compensation, and record-keeping expectations.
- Keep meticulous records of all financial transactions made on the principal's behalf.
- Communicate regularly with family members or other stakeholders to avoid misunderstandings.
- Be cautious about who you appoint—choose someone you trust who understands the responsibilities and is willing to follow the rules.

In re Beam is a sobering reminder that a POA is not a blank check. It's a serious legal obligation, and misuse of that authority can lead to personal liability—whether you're in Pennsylvania or New Jersey.

If you need help creating, reviewing, or enforcing a Power of Attorney—or if you suspect a loved one's finances are being mishandled—our Elder Law team at Mandelbaum Barrett PC is here to help. We work closely with individuals and families to ensure that their legal documents are clear, enforceable, and designed to protect what matters most.

Contact our team to schedule a consultation or learn more about fiduciary duties under New Jersey law.



Red Bank Breaks Ground on First-of-its-Kind Housing for Adults with Autism



Red Bank is setting a new standard in supportive housing with Thrive Red Bank, a pioneering apartment community designed specifically for adults with autism. This project represents a major step forward in providing safe, inclusive, and independent living opportunities for a population that has historically faced limited options.

A Groundbreaking Initiative

Construction is underway on the 34,000-square-foot building, which will include 32 one-bedroom units and a ground-floor studio apartment staffed 24/7. The project is expected to be completed in early 2027.

Designing for Independence and Safety

Thrive Red Bank has been thoughtfully designed to meet the unique needs of adults with autism. Features include:

- Low-voltage lighting and sensory-friendly gathering spaces
- Floor drains in bathrooms to prevent flooding
- Faucets and ovens that automatically shut off if left on

The apartments will resemble standard one-bedroom units, supporting both inclusion and independence. Residents will benefit from on-site support services to assist residents and families. Red Bank was selected for its walkability, access to jobs and volunteer opportunities, and cultural and educational offerings. Thrive Red Bank offers a model for integrated living, ensuring residents can participate fully in community life.

Of the 32 units, 27 are market-rate and five are affordable, with applications for the latter opening six months before construction completion. Market-rate units are currently accepting applications.

A Landmark for Special Needs Housing

Thrive Red Bank is **the first project of its kind in New Jersey and the world**, combining inclusive design, comprehensive on-site support, and a public/private partnership. It serves as a model for communities nationwide seeking to provide high-quality, supportive housing for adults with autism.

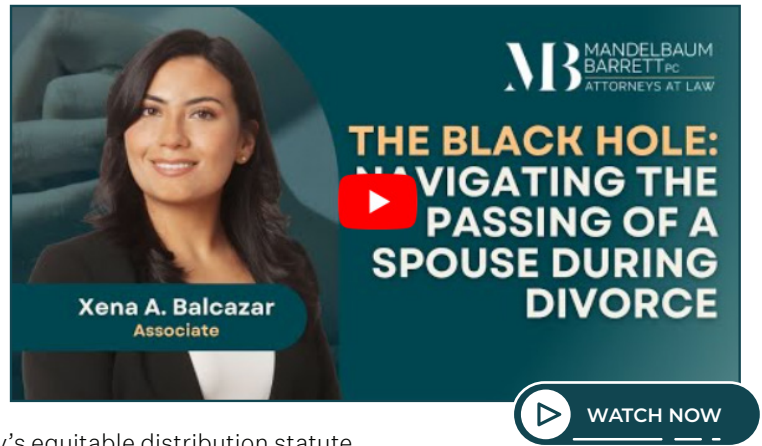
At Mandelbaum Barrett PC, our **Special Needs Team** is here to assist families with questions about housing options, planning, and support services for adults with autism. Projects like Thrive Red Bank underscore the importance of thoughtful planning and advocacy to ensure individuals with special needs can live safely, independently, and with dignity.

RED BANK
THRIVE™



THE BLACK HOLE: NAVIGATING THE PASSING OF A SPOUSE DURING A DIVORCE

In a recent vlog, Xena A. Balcazar, an associate in the Elder, Matrimonial and Family Law Practice Groups at Mandelbaum Barrett PC, discusses a longstanding legal ambiguity in matrimonial law: what occurs when a spouse passes away before a divorce is finalized. Commonly referred to as the “black hole” in divorce proceedings, this complex issue has now been clarified through recent amendments to New Jersey’s equitable distribution statute.



A DECADES-OLD LEGAL GAP

Roughly 20 years ago, the New Jersey Supreme Court began grappling with what happens to marital assets when one spouse passes away before a final judgment of divorce is entered. At that time, courts struggled to determine whether the surviving spouse had any equitable rights to the marital estate. This created a confusing legal limbo where neither the Family Court nor Probate Court had clear jurisdiction over equitable distribution in such cases.

THE OLD QUESTIONS: ELECTIVE SHARES AND INTESTACY

Before the recent legal reform, surviving spouses often had to rely on the probate system, which raised complex questions. For instance, would the surviving spouse be entitled to an elective share, allowing them to claim one-third of the deceased spouse’s augmented estate, even if they had been disinherited? Alternatively, would they receive an intestate share under New Jersey’s default inheritance laws? Unfortunately, in cases where a divorce was still pending, these rights were often unclear or, in some cases, vanished entirely.

A MAJOR LEGISLATIVE UPDATE

As of last year, an important change was made to address this complicated situation. The New Jersey equitable distribution statute was amended to allow Family Court to handle equitable distribution matters even if one spouse passes away before the divorce is finalized.

This change provides much-needed clarity and protection, helping ensure that a spouse’s contributions to marital assets are recognized despite such a difficult circumstance. According to Balcazar, “The legislators have now addressed how the surviving spouse can be protected and how their rights to those marital assets can be preserved.”

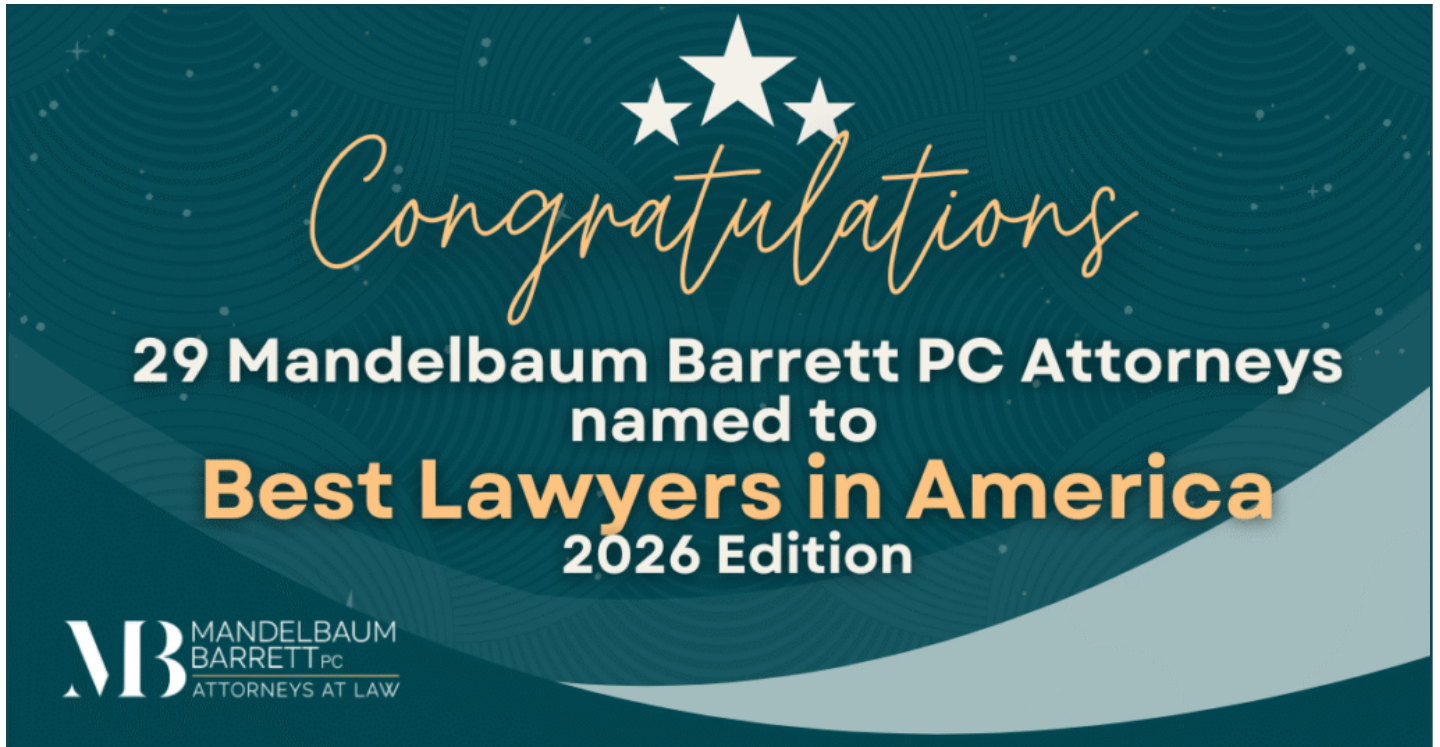
PROTECTING YOUR RIGHTS IN COMPLEX CIRCUMSTANCES

With this legislative fix, New Jersey family law now offers clearer protection for divorcing spouses facing this difficult and rare scenario. If you or someone you know is navigating a divorce and has concerns about estate rights or the impact of a potential death during proceedings, Xena Balcazar and the team at Mandelbaum Barrett PC are available to provide guidance.

Mandelbaum Barrett PC is here to assist in preserving your rights during matrimonial litigation.

You can reach Xena A. Balcazar at xbalcazar@mblawfirm.com or at 973-243-7919.

[Watch the full YouTube video here.](#) 



29 Attorneys Recognized on the Best Lawyers in America® 2026 List

Being recognized in the **Best Lawyers in America® 2026** means more to our attorneys than just being included on a list. They put their reputation, skill, and dedication into every case and every client, and we are humbled that 29 members of our team have been honored this year.

Congratulations to Richard Miller who was recognized for Elder Law and to all of our attorneys recognized in this edition.

[CLICK HERE FOR THE FULL LIST](#)



Shawna Brown Recently Presented an Estate Planning Seminar



On September 18th, **Shawna Brown, Esq.**, Counsel in the Elder Law Practice Group at Mandelbaum Barrett PC, presented an Estate Planning Seminar at the Office of Training and Professional Development for the New Jersey Department of Children and Families.

Shawna covered essential topics including:

- ✓ Living Wills
- ✓ Planning For Children's Futures

[Learn more about Shawna and her practice here.](#)




STATE OF NEW JERSEY
DEPARTMENT OF CHILDREN AND FAMILIES



Estate Planning Like a Pro

 **Estate Planning Like a Pro:
Wills, Wealth, What-ifs**

 **Tuesday, October 21, 2025**

 **12:00 PM – 2:00 PM (ET)**



Estate planning is more than documents—it’s about protecting assets, honoring wishes, and ensuring a smooth transfer of wealth.

Designed for newly admitted NJ attorneys, this program presented by The Knowledge Group LLC is designed to help you avoid costly mistakes and deliver exceptional value to your clients.

FEATURING:

Shawna Brown

Counsel, Mandelbaum Barrett PC




Barbara Martin

Counsel, Beattie Padovano, LLC



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- Anticipate “What If” Scenarios**
- Explore Key Planning Tools & Trends**

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Team Mandelbaum

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