

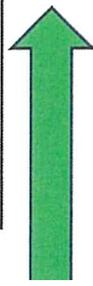


## Celebrating 75 Years of Brilliance

Honoring Our Legacy &  
Embracing Our Future

The Arc of Illinois 75th Annual Convention  
April 22 - 23, 2025

Marriott Hotel in Bloomington-Normal , 201 Broadway Ave. Normal, IL 61761 . Parking garage across the street,



**TUESDAY, APRIL 22, 2025** □ 4:15 – 5:00 p.m. □ Breakout Session #12  
Attorneys & Fellow Family Members, Brian Rubin & Benji Rubin  
“Special Needs Trusts, ABLE Accounts, Letters of Intent, and Related Topics”

Attorney Brian Rubin, a parent, and Attorney Benji Rubin, a sibling, of Mitchell Rubin who has Autism, will explain the basics of special needs’ planning, including special needs trusts, ABLE accounts, selecting the future team of trustees and guardians, impact of divorce and law-suit settlements, educating the extended family, letters of intent, and many related topics.

**WEDNESDAY, APRIL 23, 2025** □ 10:30 – 11:15 a.m. □ Breakout Session #17  
Attorneys & Fellow Family Members, Brian Rubin & Benji Rubin  
“Guardianship & the Many Alternatives to Guardianship”

Attorney Brian Rubin, a parent, and Attorney Benji Rubin, a sibling, of Mitchell Rubin who has Autism, will present , will explain Guardianship (Limited and Plenary), and the alternatives, including Supported Decision Making, Powers of Attorney, and related matters.

# **RUBIN**

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# **LAW**

A Professional Corporation

## **Special Needs Legal & Future Planning**

**WWW.RUBINLAW.COM**

**EMAIL@RUBINLAW.COM**

**866.TO.RUBIN**

**“Legal and future planning for our fellow families of individuals with special needs, including intellectual disabilities, developmental disabilities, and/or mental illness, is not one thing we do, it’s the only thing we do; it’s not one area of our practice, it’s our only area of practice.”**



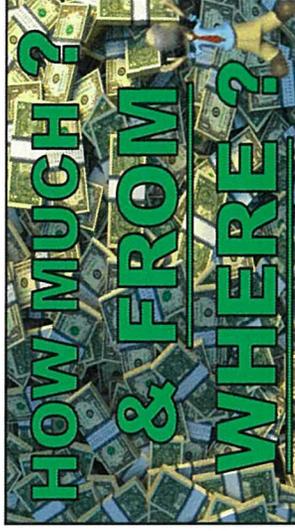
**Benji Rubin**  
**Past-President**  
**S.I.B.S.**  
 Supporting **Illinois Brothers & Sisters**  
 Illinois Chapter of the national **Sibling Leadership Network**  
**SIBLING LEADERSHIP NETWORK**  
**SNA**

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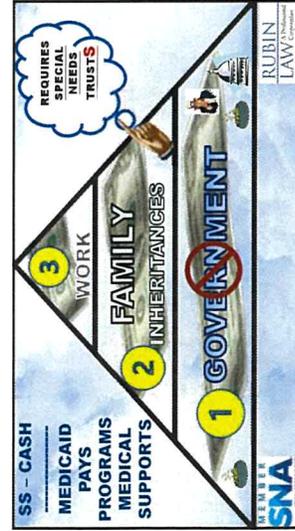
**RUBIN LAW P.C.**  
**Siblings national network**  
**7 SIBLING LEADERSHIP WORK**  
**ip.org**

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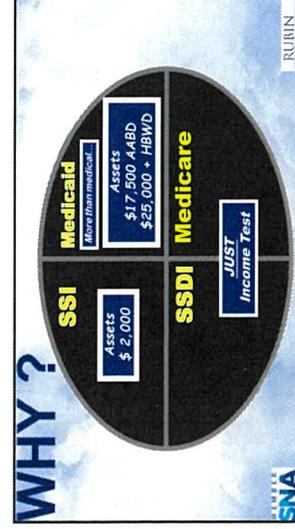
**HOW MUCH?**  
**& FROM?**  
**WHERE?**

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**SS - CASH**  
**MEDICAID PROGRAMS PAYS MEDICAL SUPPORTS**  
**3 WORK FAMILY INHERITANCES**  
**2 GOVERNMENT**  
**1 GOVERNMENT**  
**SNA**

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**WHY?**  
**SSI** Assets **\$2,000**  
**Medicaid** More than medical Assets **\$17,500 AABD \$25,000 + FBWD**  
**SSDI** **JUST** Income Test  
**Medicare**  
**SNA**

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**PARENTS' HEALTH INSURANCE!**  
 Dependent children **NOT** subject to "limiting age" provisions!  
 Even if living "residentially"!  
 Even if can't claim as dependent for IRS Income Tax purposes!  
 since **1969**, amended **1997 & 2007**.  
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"the attainment of the limiting age does not operate to terminate the hospital and medical coverage of a person who, because of a handicapped condition, occurred before attainment of the self-sustaining his or her parent's lifelong care & supervision."

**Request Form # 4** is **incapable of** **is dependent on** **to providers for**

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Which Door ?

State of Illinois Department of Human Services

#1 DDD  
#2 DMH  
#3 DRS

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STATE OF ILLINOIS DHS DDD DEFINITION OF DD FOR WAIVER

**NOT SAME AS SSA**

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**ADULTS - if not "DD"**  
(or can "try" even if...)

**DHS - DRS HOME SERVICES WAIVER**

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**PUNS for DDD**

**PRIORITIZATION OF URGENCY OF NEED FOR SERVICES REQUIRED**

Children (2½ - 17) & adults (18+) with IDD, since February 2008.

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**PUNS + Medicaid Required** for:

- ▶ All Medicaid Waiver Programs... For DD
- ▶ Children's Waiver
- ▶ Adult Waiver
- ▶ CILA - Group Homes
- ▶ HBSS
- ▶ In-Home CILA
- ▶ Supported Employment Services
- ▶ Community Day Services (DT)
- ▶ Regular Work (Workshop)

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**Special Needs Trusts**

↑ **3rd Party**

↑ **Self Settled**

**aka, OBRA, 1st Party, Pay Back...**

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Suite 100  
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**SNTs.. 2 Versions, both...**

- ✓ Reserve Supplemental Fund
- ✓ Over & Above Government Benefits
- ✓ No \$ limit
- ✓ Federal
- ✓ State

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**3rd Party Trust**

**ORIGINAL - GOOD**

by Court Decisions **1982**

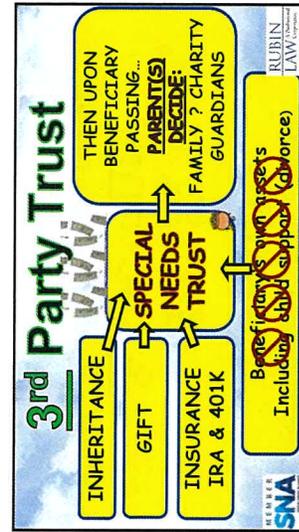
by Statute **760 ILCS 3/509 (1/1/20)**

Original statute **760 ILCS 5/15.1 1991**

GIFTS INHERITANCES  
**NOT OWN 1<sup>st</sup> Party!**

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**OK... so**

**Inside Will or Living Trust ?**

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**No! No! Not!**

**you**

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**Won't exist until...**




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**#1 So NO "Piggy Backing"**  
**#2 NO "Grand Fathering"**  
**#3 NO Nursing Home Impoverishment**  
**#4 NO Place for gifts to go**




40

**So far just 3rd Party But what if...**




41

**Beneficiary HAS assets**

- Savings Bonds
- IRA - 401k
- 529? UTMA Accounts
- Large Gift
- Low Sixty Settlement
- NOT! Inheritance
- Excess SSI/SSDI
- WILL/TRUST/BENEFICIARY
- CHILD SUPPORT - DIVORCE




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**If "NOT that much"**

When to consider ABLE?

- Excess SSI/SSDI/Earned Income... to avoid resource/asset issue:
  - SSI \$2,000 / ABD Medicaid \$17,500 / HBWD Medicaid \$25,000 + OBs
- Short term savings
- For beneficiary to be in control of "some" spending money
- Small inheritances not correctly left to 3rd party trust
- Court ordered divorce child support not to exceed \$18,000 in a calendar year - **MAYBE?**
- 2018 - Convert traditional 529 Account... up to \$18,000 limit (2025)
- Earned income still counts; ABLE not the answer for income!




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**Otherwise 1st Party Special Needs Trust**

Federal Law 8/10/93  
 Illinois Law 1/1/96




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COMMON ATTORNEY MISTAKES!

**Not  
100%  
Discretionary**

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COMMON ATTORNEY MISTAKES!

**Permitting  
Pay TO...**  
{So... **SHOULD**  
provide ability to  
distribute to ABLE!}

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COMMON ATTORNEY MISTAKES!

**Over  
Restrictive  
Language...**

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COMMON ATTORNEY MISTAKES!

**No "Contribution"  
or  
Gift Language  
3rd Party**

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COMMON ATTORNEY MISTAKES!

**No  
"Contingent"  
SNT for others**

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COMMON ATTORNEY MISTAKES!

**No  
"Termination"  
Provision**

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COMMON ATTORNEY MISTAKES!

**NO**  
**Nursing Home**  
**IMPOVERISHMENT**  
**PROVISION**



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COMMON ATTORNEY MISTAKES!

**NO**  
**TRS/SURS**  
**& other "public"**  
**Pensions Sub Trust**



58

COMMON ATTORNEY MISTAKES!

**No Provisions for**  
**Next Generation**  
**Trustees!**



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COMMON ATTORNEY MISTAKES!

**No Contingent**  
**Corporate Trustee!**



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COMMON ATTORNEY MISTAKES!

**No Trustee(s)'**  
**or Guardian**  
**Power to change**  
**corporate trustee...**  
**Trust Protectors?**



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COMMON ATTORNEY MISTAKES!

**No Change**  
**of State**  
**Provision...**



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COMMON ATTORNEY MISTAKES!

**No Family &/or Friends Instructions or Forms!**




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COMMON ATTORNEY MISTAKES!

**Provisions on "passing" of beneficiary?**

**1st Party: "ALL" States...**

**3rd Party: Parents GPA, CLP, Atom...**




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COMMON ATTORNEY MISTAKES!

**Divorced Parents? Common or Separate SNTs?**




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COMMON ATTORNEY MISTAKES!

**Other Documents**

- Wills need special language!
- Living Trusts too
- Insurance Trusts too
- Powers of Attorney too
- Beneficiary Designations too




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Rec From It # Han Fo

est Item 5 ing rial #10

Administering a Special Needs Trust

A Handbook For Trustees




67

You need to write it ALL down!

Guidance & Instructions For Future Guardians, Agents, Trustees, & Care Providers

AKA Letter of Intent...

ABOUT MITCH RUBIN




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## **WHAT WE DO....**

- \* Special Needs Trusts
- \* Government Benefits
- \* Guardianships
- \* Supported Decision Making & Powers of Attorney
- \* Estate/Estate Tax Planning
- \* Wills & Trusts
- \* Estate Administration
- \* Letters of Intent
- \* Navigating the Illinois "MAZE" of Services
- \* Consulting on Litigation Settlements
- \* Consulting on Special Needs Family Divorces

# **NO travel**

## **needed...**

# **Consultations & document signing, ALL virtual, via Zoom, now permitted by Illinois law...**

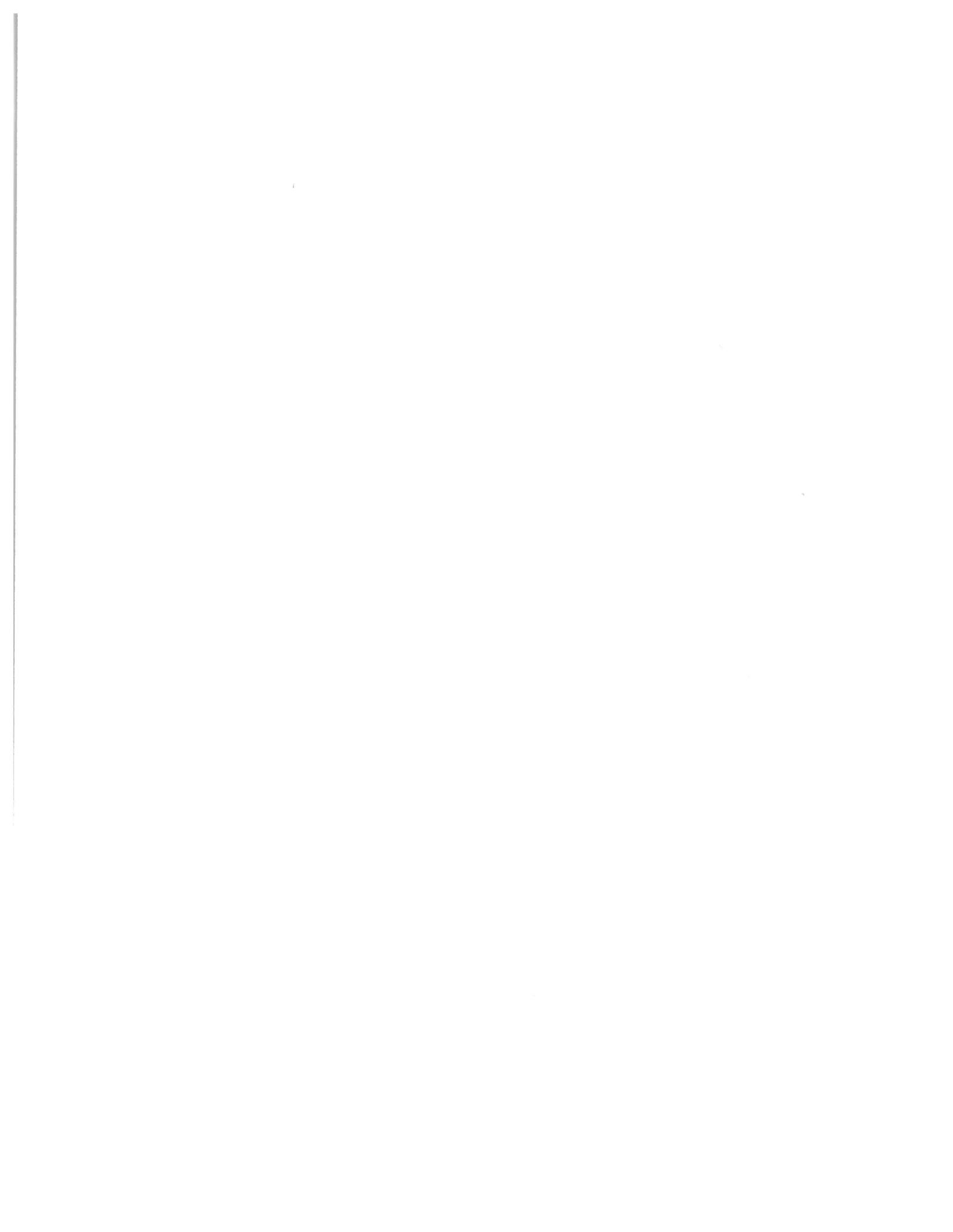
**847.279.7999**

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**[www.rubinlaw.com](http://www.rubinlaw.com)**



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**“Legal and future planning for our fellow families of individuals with special needs, including intellectual disabilities, developmental disabilities, and/or mental illness, is not one thing we do, it is the only thing we do; it is not one area of our law practice, it is our only area of practice.”**

**Brian Rubin, parent and attorney  
Benjamin Rubin, sibling and attorney**

## **Brian N. Rubin**

**Attorney Brian Rubin, the founder of Rubin Law, a former IRS Agent, and former IRS Attorney, is the parent of three children, one of whom, Mitchell, has Autism. Brian's law practice, for more than four decades, since 1982, when Mitchell was one year old, has been dedicated to serving the legal and future planning needs of his fellow Illinois families of children and adults with intellectual disabilities, developmental disabilities, and/or mental illness. Brian is Past President of the Special Needs Alliance, the national, non-profit, association of experienced special needs planning attorneys (membership is by invitation only), served on the Special Needs Law Section Steering Committee of the National Academy of Elder Law Attorneys, was a Charter Member of the Academy of Special Needs Planners, and is a Faculty Member and Text Book Author for the Illinois Institute for Continuing Legal Education (IICLE) on the topic of special needs legal and future planning, as well as a Speaker for the American Bar Association and the Illinois State Bar Association on those topics. Brian has been elected as a Fellow of the American College of Trust and Estate Counsel (ACTEC) and has received the highest attorney rating from Martindale-Hubbell, AV® Preeminent™, and AVVO's highest attorney rating of Top Attorney. Brian is Past President of The Arc of Illinois, served on The Arc of Illinois Board for 15 years, is a Past Chairman of the State of Illinois Statewide Advisory Council on Developmental Disabilities, served as Chairman of the State of Illinois Autism Task Force, served as a member of the State of Illinois Guardianship & Advocacy Commission, and served on the State of Illinois Department of Human Services Office of Inspector General Quality Care Board, among many other State of Illinois Committees and Commissions. Brian has been a member of the Board of Directors of Clearbrook (an organization serving more than 8,000 individuals with intellectual and/or developmental disabilities, including his son, Mitchell) since 1989, is a member of the Board of Trustees of Life's Plan, Inc. which serves as Trustee of both Pooled Special Needs Trust and individual Special Needs Trusts, served as Chairman of the Board of the Special Leisure Services Foundation, the foundation supporting the Northwest Suburban Special Recreation Association, served as the founding Chairman of the Board of the Foundation of The Special Education District of Lake County (SEDOL Foundation), served on the Board of KESHET, served on the Advisory Council of Encompass, served on the Board of DayOne Pact, Inc., which serves as Trustee of Special Needs Trusts as well as Guardian for individuals with intellectual disabilities, developmental disabilities and/or mental illness, and served on the Board of Northpointe Resources.**

## **Benjamin A. Rubin**

**Attorney Benjamin (Benji) Rubin is President of Rubin Law, A Professional Corporation. He first joined in 2010 upon graduation from Law School. Benji graduated from the University of Illinois College of Law, Magna Cum Laude, received his undergraduate degree from Northwestern University, and his Graduate Law Degree, an LLM (Tax), with honors, also from Northwestern University. Benji has been elected as a Fellow of ACTEC (The American College of Trust and Estate Counsel). Benji is a member of the national Board of Directors of the Special Needs Alliance, the national, non-profit, association of experienced special needs planning attorneys (membership is by invitation only), is Vice-Chair of the American Bar Association Elder Law and Special Needs Planning Group, a past chair of the American Bar Association Special Needs Planning Committee, is immediate past president of SIBS (Supporting Illinois Brothers and Sisters), the Illinois chapter of the national Sibling Leadership Network , an organization of adult siblings of individuals with intellectual disabilities, developmental disabilities and/or mental illness. Benji served as a member of the Board of Directors of The Arc of Illinois for 9 years. He also serves on the Board of Directors NSSRA Foundation (Northern Suburban Special Recreation Association) which facilitates and provides year-round recreation programs and services to individuals in Deerfield, Glencoe, Glenview, Highland Park, Kenilworth, Lake Bluff, Northbrook, Northfield, Wilmette, and Winnetka; Highwood and Lake Forest, and Riverwoods. In addition, Benji serves on the Board of Directors of DayOne Pact, which serves as Trustee of Special Needs Trusts as well as Guardian for individuals with intellectual disabilities, developmental disabilities and/or mental illness, serves on the Board of Directors of the Foundation of The Special Education District of Lake County (SEDOL Foundation), served previously on the Advisory Council of Encompass (Encompass in partnership with Jewish Child & Family Services, Jewish United Fund, JVS Chicago, JCC Chicago, Keshet, and The Center for Enriched Living and Center for Independent Futures). Benji is also a Faculty Member for the Illinois Institute for Continuing Legal Education (IICLE) on the topic of special needs planning, as well as a frequent speaker for the American Bar Association and the Illinois State Bar Association on those topics. Benji lives with his wife and four children in Northbrook, Illinois.**

# **WHAT WE DO...**

- \* Special Needs Trusts**
- \* Government Benefits**
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