# Special Needs Trust Update

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## Cases

*Black v. Goodwin*, Case No.: 25SC449 (Unpublished, Colo., Nov 24, 2025). Colorado Supreme Court denied Cert. after court of appeals affirmed probate court's decision to decline to terminate conservatorship retroactively.

Bernard Black was removed as the conservator for his sister, Joanne Black, in 2015, after the probate court discovered that he had stolen more than $1 million from her (he placed the money in an SNT for Joanne and an "Issue Trust" for himself and his children). The damages were trebled and Black was surcharged in the amount of $4.6 million. Rather than repay the stolen money, as ordered by the court, Black embarked on a campaign of scorched earth multi-jurisdictional litigation against Joanne that has persisted for a decade.

In 2023, as the probate court was fashioning a remedy that would finally allow Joanne to recoup some of the stolen funds, Black moved to terminate Joanne's conservatorship, retroactively, based on a New York order issued in 2016. The probate court denied the motion and Black appealed.

The Court of Appeals held that, according to state law, termination of a conservatorship may only be sought by the protected person, the conservator, or a "person interested in a protected person's welfare." Because "Black is none of those," the court concluded that he lacked standing to move for termination of Joanne's conservatorship. Accordingly, the court affirmed the probate court's order.

In the present case, the Supreme Court of Colorado denied Black's Petition for Writ of Certiorari.

*In the Interest of Joanne Black*, Case No.: 25CA0229 (Unpublished, Colo. Ct. App., October 1, 2026). Colorado Court of Appeals affirmed earlier orders voiding Black's disclaimers of his sister's assets, removing him as the trustee of two trusts, and denying his motion to terminate his sister's conservatorship retroactively.

Bernard Black was removed as the conservator for his sister, Joanne Black, in 2015, after the probate court discovered that he had stolen more than $1 million from her by disclaiming assets Joanne was supposed to inherit from their mother and placing the money in an SNT for Joanne and an "Issue Trust" for himself and his children. The damages were trebled and Black was surcharged in the amount of $4.6 million.

In May of 2023, the probate court issued an order voiding Black's disclaimers of his sister's assets and removing Black as trustee of the two trusts. In April of 2023, the probate court had already denied Black's motion to terminate his sister's conservatorship retroactively. Black appealed both of these probate court orders, again.

The Court of Appeals, noting that this was the eleventh appeal in this conservator estate, recognizing that Joanne Black is now deceased, and stating the obvious fact that Black was only attempting to relitigate all of the issues from the past, affirmed both orders of the probate court.

*Chamberlin et al v. Goldberg*, USCA11 Case No.: 25-10933 (Unpublished, 11th Cir., August 27, 2026). Efforts to recoup mismanaged funds from The Center failed because funds were so commingled with estate property in a bankruptcy proceeding that they could not be separated and the claims were inextricably intertwined.

The Center for Special Needs Trust Administration, Inc. ("The Center") served as trustee for pooled special needs trusts for over 2,000 beneficiaries and loaned more than $100 million to Boston Finance Group, LLC, a company controlled by its founder, Leo Govoni. After the loan defaulted, The Center filed for Chapter 11 bankruptcy, and Michael Goldberg was appointed bankruptcy trustee.

Clark Chamberlin, a disabled teenager whose personal injury settlement funds were mismanaged by The Center, and his parents filed a class action seeking recovery. The lawsuit did not name The Center as a defendant or assert the same claims as the bankruptcy trustee.

Goldberg successfully moved to enforce the automatic bankruptcy stay against the class action. The bankruptcy court and district court concluded that the claims were so intertwined with the bankruptcy estate's claims that the litigation would interfere with estate administration. The Eleventh Circuit affirmed, holding that the automatic stay applied because the disputed funds were so commingled with estate property that they could not be separated and the claims were inextricably intertwined with claims belonging to the estate.

*Baker v. Lifetime Advocacy Plus et al*, ____ F. Supp. 3d ____, Case No.: 2:25-cv-01785-TL (W.D. Wash., June 5, 2026). Beneficiary's suit against pooled SNT for defamation, negligence, breach of fiduciary duty, discrimination, and retaliation or coercion when trustee warned him his account was being rapidly depleted was dismissed on trustee's motion for summary judgment.

Justin Baker ("Baker") funded his pooled SNT sub-account with Lifetime Advocacy Plus ("LA+") in June of 2025 in the amount of $39,735.00. The fee to open the account was roughly $2,000.00, and the trustee fee for the first year was $2,123.50. Almost immediately, Baker requested a disbursement of $5,000.00 to purchase various home furnishings. The next day, he modified his request to $13,000.00. The $13,000.00 disbursement was approved. About a week later, he requested a disbursement of $5,000.00 for Invisalign braces, which was also approved. That same day LA+ notified Baker by letter that large disbursements were rapidly depleting his trust account.

Further communication between the parties eventually let to Baker sending a series of e-mails and engaging in legal action against Defendants. During the correspondence, Baker asked representatives of LA+ for various accommodations, such as afternoon phone calls and waiving e-mail and phone call fees, due to his chronic fatigue syndrome, fibromyalgia, and sleep condition. The legal action that Baker took against the Defendants included filing a small-claims case, seeking an investigation of LA+ by the Washington State Department of Financial Institutions, seeking a vulnerable adult protection order against a representative of LA+, and filing a written complaint with the Washington State Attorney General's Office – Consumer Resource Center.

When none of these state-court and agency efforts were effective, Baker filed a civil action against LA+ and its representatives in the Federal District Court, alleging, among other things, defamation, negligence, breach of fiduciary duty, discrimination, and retaliation or coercion against him. Defendants filed a motion for summary judgment on all counts. After carefully considering each count, the court granted the summary judgment and dismissed the case.

*In re Complaint as to the Conduct of Clark*, ____ P.3d ____, 374 Or. 683 (Or., December 30, 2025). Oregon State Bar failed to prove by clear and convincing evidence that Attorney violated Rule of Professional Conduct by knowingly disobeying a court order requiring her to deposit $20 per month into the checking account of a beneficiary receiving SSI.

The Oregon State Bar charged Attorney (and SNT Trustee), Anne-Marie W. Clark with knowingly disobeying a court order, violating Rule of Professional Conduct (RPC) 3.4(c). Matters arose after a verbal order was provided by a trial court judge in 2016, while Attorney Clark was serving as trustee of a SNT for her cousin, Allen. The Bar alleged that the judge ordered Clark to deposit $20 per month into Allen's bank account, which Clark failed to do. Clark contended that the order only addressed the method of distribution (electronic deposit) and not the amount or frequency of the distribution. She also argued that any violation was not done knowingly, as she did not understand the judge ordered $20 monthly payments.

The trial court rejected Clark's argument that RPC 3.4(c) only applies to written orders, holding that the rule prohibits knowingly disobeying both written and verbal court orders.

The Court found the trial court's verbal order ambiguous regarding whether it required Clark to continue $20 monthly distributions or merely addressed the method of distribution from the SNT. The context of the hearing did not provide clear and convincing evidence that the order required the $20 payments. The Court concluded that the Bar did not prove Clark knowingly disobeyed the order. Clark's understanding of the order was plausible, and her conduct was consistent with her interpretation that the order only addressed the method of distribution.

The Supreme Court of Oregon concluded that the Bar did not establish that the trial court ordered the respondent to deposit $20 per month into Allen's bank account, nor did it prove that the respondent understood the trial court to have issued such an order. Consequently, the Bar's complaint was dismissed.

*In re Bennie Johnson Special Needs Trust*, ____ N.W.2d ____, Case No.: 378646 (Mich. Ct. App., September 16, 2026). In a case with complicated facts, Court of Appeals reversed probate court order suspending guardian when special fiduciary had actually sought to remove sister as trustee of SNT.

In 2011, Bennie Johnson ("BJ") suffered a traumatic brain injury as a result of a motor vehicle accident. BJ's sister was appointed as his conservator and guardian that same year. Thereafter, BJ lived with his sister, and she adopted BJ's biological daughter, Taisha. Taisha serves as BJ's primary caretaker. In 2014, an SNT was established for BJ with BJ's sister as the trustee.

Years later, BJ's sister was diagnosed with dementia. In March of 2025, Taisha was appointed as BJ's successor guardian. Months later, BJ's sister was suspended as BJ's fiduciary in this trust case, and the court appointed Teri A. Jordan ("Jordan") as a special fiduciary.

In October 2025, Jordan filed a petition for instruction in the trust case alleging that BJ's sister had improperly withdrawn $45,000.00 from an estate account, which had not been used for BJ's care. There were also issues with the caregiving arrangements and payment to the caregivers. Various family members, including Taisha's 15-year-old daughter, provided care according to a schedule that Jordan felt was overlapping and duplicative. Jordan secured a case manager to assess BJ's needs, and she opined that Taisha had a conflict of interest as BJ's guardian and the primary payee of care-provider services. Jordan sought removal of BJ's sister as trustee, amendment of the SNT to allow for the appointment of a successor trust, and to have BJ's sister return the $45,000.00. Jordan also asked the court to rule on the appropriateness of BJ's care providers and their rate of pay, and to give direction regarding the perceived conflict of interest with Taisha as BJ's guardian and primary caretaker.

After an emergency hearing on November 25, 2025, replete with allegations of lack of notice, financial exploitation of BJ's sister, bias on the part of the case manager, and the absence of any real emergency, the probate court suspended Taisha as guardian, appointed a professional temporary guardian to do a full assessment, and set a full evidentiary hearing for January of 2026.

On December 1, 2025, Taisha filed an emergency motion to stay the probate court's order pending appeal, which was granted. On December 12, 2025, Taisha filed an appeal with the Appeals Court of Michigan. The appeals court reversed and remanded the decision of the probate court because the court had ruled on guardianship matters when the petition at hand solely involved the trust case.

*Martens v. Public Guardian of L.A. County*, Case No.: B341889 (Unpublished, Cal. Ct. App. 2d, December 31, 2025). Mother of the beneficiary of SNT lacked

standing to challenge probate court's ruling to authorize sale of the beneficiary's residence.

The case involves an appeal by Rebecca Martens, the mother of Merik Migliore, who is the beneficiary of the Merik Migliore Special Needs Trust. The trustee of the trust was an independent party and authorized by the Court to use trust funds to purchase a residence for the beneficiary and her mother to live in (rent-free). After the Trustee sought authorization from the Court to sell the residence and the Court approved, Martens appealed, claiming that she was injured, personally, by the Court's rulings.

On appeal, the Court found that Martens lacked standing to represent Migliore because, although she was guardian ad litem, she was not an attorney. The Court also ruled that Martens lacked standing to challenge rulings on her own behalf, as she was neither a party to the action nor a beneficiary of the trust.

*Michael M. v. Frank J. Bisignano*, ____ F.Supp.3d ____, Case No.: 24-cv-01777-W-JLB, 2026 WL 395773 (S.D. Cal., February 11, 2026). Federal District Court reversed and remanded SSA decision to deny SSI application due to loan from pooled SNT account to be repaid from anticipated future SSI payments.

In November of 2018, Michael M. settled a workers' compensation claim for a net amount of $226,266.00, all of which was made payable to the Golden State Pooled Trust ("Trust") for Michael M.'s benefit.

In January of 2019, Michael M. entered into a loan agreement with the Trust, in which Michael M. agreed to repay the Trust all funds disbursed on his behalf for food, shelter, and other ISM items while his application for SSI was pending. Beginning that same month, the Trust made loan payment to Michael M. in the monthly amount of $931.72. This loan agreement was later modified to provide that, in the event the amount received from SSI was less than the amount loaned from the Trust, repayment from Michael M. would be a minimum of $25 per month or the amount borrowed divided by the years of Michael's actuarial life expectancy, whichever was greater.

On April 1, 2019, Michael M. filed an application for SSI benefits. On May 24, 2019, the SSA notified Michael M. that he was ineligible for SSI benefits due to "excess income." After Michael M.'s request for reconsideration was denied, he requested an administrative hearing before an ALJ. An administrative hearing was held on June 10, 2021. In her August 10, 2021, decision, the ALJ found that Michael M. was ineligible for SSI due to the loan payments, which she found constituted countable income to Michael M. Based on the

POMS SI 01120.220, the ALJ determined that the loan from the trust was an informal loan and, as such, was not bona fide because the plan for repayment was not feasible. This decision was affirmed by the Appeals Council in September of 2024. Michael M. filed the present case for judicial review on October 4, 2024.

In his merits brief, Michael M. argued that the ALJ failed to realize that the POMS are not binding nor sufficient authority alone to rest a decision on, and also that the ALJ failed to complete the record. The court found that the ALJ did not err in relying on the POMS because Michael M. had not argued that the POMS were plainly erroneous or inconsistent with the governing statute, and therefore the POMS were entitled to deference, even after the U.S. Supreme Court overruled the *Chevron* case in 2024. Nonetheless, the court held that the ALJ erred in her treatment of Michael M.'s loan. The court deemed the loan to be a formal loan, as in loans between individuals in the business of lending money or providing credit, rather than an informal loan such as those between family members. According to POMS SI 01120.220, formal loans are assumed to be bona fide. The court also found that the ALJ failed to develop the record, either by contacting the Trust to get more information about the loan or by making findings about Michael M.'s disability.

Reversed and remanded.

*Harper v. Scheulen*, Case No.: 1162-24-4 (Unpublished, Va. Ct. App., November 5, 2025). A case where the Court does the right thing and increases the funding of SNT to compensate for the inaction of the Executor.

LaRue Harper's Will devised three parcels of real property, including two to her former son-in-law conditioned on his caring for her disabled granddaughter, Caren. A family settlement agreement required the properties to be transferred to a revocable trust and $50,000 to be contributed to an SNT for Caren's benefit. Neither obligation was fulfilled by LaRue's daughter, Ann.

The circuit court ordered the properties transferred to the trust and sold, removed Ann as trustee, appointed a successor, and increased the funding of the SNT for Caren's benefit from $50,000 to $180,000 to compensate for losses caused by Ann's inaction as executor. The Court of Appeals affirmed the removal of Ann and the appointment of her successor.

*U. S. v. Rubalcava*, ____ F.4th ____, Case No.: 24-40463 (5th Cir., December 3, 2025). This is really a sexual exploitation case, but it is interesting that the

## U.S. Court of Appeals affirmed the District Court's decision that SNT funds were available to pay fines and reparations.

In October of 2023, Ulysses Rubalcava pleaded guilty to one count of possession of child pornography and two counts of sexual exploitation of children. The district court sentenced him within the guidelines range to concurrent terms of 240 and 360 months of imprisonment, followed by a term of supervised release. The district court further imposed criminal monetary penalties and restitution in the total amount of $55,300.00.

It turns out that Rubalcava was injured in a car accident when he was a minor and was subsequently awarded an unspecified amount of money as a result of an ensuing lawsuit. Those funds were placed in an SNT for his benefit. At the time Rubalcava's criminal fines and reparations were being imposed in the present case, when the government was assessing Rubalcava's ability to pay those fines and reparations, they included the balance of his SNT, which, at that time, was $122,152.00. Rubalcava countered that the SNT should not be considered as a financial resource because he did not have unconditional control over the trust funds. The district court went ahead and included the SNT funds when determining the amount of the fines and reparations Rubalcava would have to pay. Rubalcava appealed.

On appeal, Rubalcava argued that he does not own the trust account, he has no current right to any of the funds or assets in the trust, and that the notion that the fines and reparations could be paid from the trust would be in violation of the terms of the trust itself. The government countered that the SNT funds should be included because Rubalcava is the beneficiary of the trust, and the fact that the assets were not liquid did not shield them from consideration as a financial resource. The government further contended that Rubalcava's argument is misplaced that the district court cannot penetrate the trust or mandate payment from the trust because the court did no such thing. Rather, it merely considered the trust account to be one of Rubalcava's financial resources.

The Court of Appeals affirmed the amount of the fines and reparations, including the SNT in the resources available to Rubalcava to pay those fines and reparations.

## *Beres v. City of West Palm Beach et al*, ____ F.Supp.3d ____, Case No.: 26-80895 (S.D. Fla., August 21, 2026). It is not clear what the underlying case is all about, but the federal District Court denied Beres's motion for leave to proceed *in forma pauperis* to avoid paying the one-time filing fee of $405 because she had $49,000.00 in an SNT.

In filing whatever lawsuit she was filing, Beres asked the federal District Court to waive a one-time filing fee of $405 because Beres felt herself to be impoverished and therefore unable to pay the filing fee. Her first Motion for Leave to Proceed *in forma pauperis* ("IFP Motion) was denied without prejudice due to "omissions and inconsistencies" which made it impossible for the court to determine whether Beres met the necessary financial standards. Beres's second IFP Motion was denied, even though it had a Supplemental Declaration in Support, because both of these filings were unsigned.

Beres filed her third IFP Motion, in which, among other things, she attested that she had an SNT with $49.000.00 in it. This third IFP Motion was finally considered by the court but was also denied because Beres had failed to establish that she was impoverished. Other federal courts had held that, in assessing an application to proceed *in forma pauperis*, a court may consider "funds. . . derived from family resources," and "resources that the applicant has or can get from those who ordinarily provide the applicant with the necessities of life, such as from a spouse, parent, adult sibling, or other next friend."

*In re the Irrevocable Special Needs Trust of Touger Lor*, Case No.: A26-0208 (Unpublished, Min. Ct. App., August 24, 2026). Court of appeals affirmed trial court decision to approve SNT accountings based on assumption that DHS had not objected to the accountings since they received copies of the accounting and notice of the hearings and never appeared at any of the hearings.

Lee Lor is guardian of his brother, Touger, and petitioned the court to create a self-settled SNT on behalf of Touger, who received $67,000 from a personal-injury settlement. As trustee, Lor was required to submit an annual accounting to the court setting out a complete inventory of the trust assets and itemized accounts.

After several years, Lor requested a hearing to approve the past four years of annual accounts, and the Court ordered Lor to provide the annual accounts and notice on the Minnesota Department of Human Services (DHS). At hearing, the court conditionally approved the accountings, ordered a subsequent hearing, and instructed Lor to serve the accountings and hearing notice on DHS. At the next hearing, DHS did not appear, and Lor confirmed he had served the four annual accountings and notice on DHS. The district court found Lor had served DHS and determined that because DHS did not appear or submit written objections, DHS did not object to the accountings. The order terminated the district court's jurisdiction over the SNT and required that, going forward, the annual accounting must be submitted solely to DHS.

DHS challenged the district court's approval. The court of appeals affirmed the district court's order approving the annual accountings.

*Chess v. Covey as Trustee*, 432 So. 3d 564 (Fla. 4th DCA, May 6, 2026). In dispute between SNT trustee and the parent caregivers of the trust beneficiary, state district court of appeal affirmed trial court judge's order authorizing the sale of an office condo and ratifying an agreement between the parties to utilize the "Dynamic Dividend Strategy" for investing the trust's assets, but not which one of the five options should be used to implement the strategy.

This is a very short decision, but it shows the breadth of the disagreements that can arise between an SNT trustee and the parents of the trust beneficiary.

Apparently, there is an ongoing dispute between the trustee and the parents about a trial court order addressing compensation for the parents' caregiving, but the district court determined not to rule on this issue because the trial court is still working on it

Apparently, the trial court authorized the sale of an office condo. That begs the question of why the SNT owned an office condo to begin with, but the district court of appeal affirmed the trial court ruling on that matter.

Apparently, the trial court found that the parties had stipulated to reallocation of the trust's investment in a specific manner. The parents objected to this finding and appealed. The hearing transcript reflects that the parties agreed to utilization of the "Dynamic Dividend Strategy" for investing the trust's assets, and they disagreed as to which of five options should be used in implementing this strategy. Since the trial court order did not indicate that the parties agreed to any one of the five options, the court of appeal affirmed.

*Bueno v. Bass Lake Jt. Union Elementary Sch. Dist.*, ____ F.Supp.3d ____, Case No.: 1:21-cv-00436-HBK (E.D. Cal., October 30, 2025). School district allegedly violated federal law, and parties reached a settlement whereby any settlement funds were directed into a self-settled special needs trust.

The case involved allegations that the school district violated the rights of a disabled nine-year-old girl under § 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act. The plaintiff was diagnosed with a rare genetic disorder that impacted her intellectual development and her mobility. The elementary school that she attended was in a school district governed by California law. The school district was a recipient of federal financial assistance subject to the requirements of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. By

denying her meaningful access to educational services and failing to provide reasonable accommodations the school district allegedly violated federal law.

The parties reached a global settlement through private mediation. The settlement included a structured settlement and also lump sum payments that were directed into a self-settled special needs trust for the benefit of the plaintiff. The settlement also included a prospective waiver of educational claims against the school district, and after the settlement, the plaintiff agreed to be considered a privately-placed student, not eligible for a free and appropriate public education from the district. The court found the settlement to be fair and reasonable, considering the best interests of the minor and the recovery in similar cases.

*K.D. v. Caliber ChangeMakers Academy*, ____ F.Supp.3d ____, Case No.: 2:23-cv-00083-DJC-JDP (E.D. Cal., October 22, 2025). Court directed proceeds from the settlement of a case involving a child who was injured by bullying at school to be distributed to a special needs trust.

K.D. was born with disabilities, including speech and language impairments. He was entitled to and received special education services. While in fourth grade, he was bullied, threatened, sexually abused, and sexually assaulted by other students while at school. K.D. alleged that the Defendants knew he was more likely to be targeted by virtue of his disabilities and more vulnerable to suffering detrimental effects. As a result of these incidents while at school, K.D. suffered severe emotional and psychological distress, including anxiety, depression, and suicidal ideation.

K.D. asserted a variety of state and federal law claims against Defendants. Several defendants were named in the lawsuit and ultimately matters were settled. The district court found that it was exercising supplemental jurisdiction over state law claims, and it applied the "Robidoux standard" to all of the claims. This standard imposes a "special duty" on district courts and requires a district court to conduct its own inquiry to determine whether the settlement serves the best interests of the minor. The Court reviewed and approved the terms of the settlement. It further ordered a special needs trust to be established and funded with proceeds from the settlement.

*Carolyn Young et al v. Sohntee Laray Webb*, Case No.: C102223 (Unpublished, Cal. Ct. App. 3d, April 30, 2026). State court of appeal determined that father could be considered to be an heir under the state laws of intestate succession

when SNT beneficiary died intestate because his paternity had been established by an earlier child support judgment.

Angela gave birth to Jazlynn in 2010. Jazlynn shares a last name with Sohntee, but no father is listed on her birth certificate. Angela and Sohntee were never married. In 2014, Jazlynn nearly drowned. A lawsuit resulted in a personal injury recovery and an SNT was established. In 2019, Jazlynn died due to complications from the near drowning. Sohntee is listed as Jazlynn's father on her death certificate.

After Jazlynn's death, the trustees of the SNT filed a petition for instructions as to the beneficiaries of the SNT. Angela filed a claim arguing she was Jazlynn's only heir because she is "not certain" that Sohntee is Jazlynn's natural father. Sohntee filed his own claim asserting he is Jazlynn's natural father and that neither his paternity nor his acknowledgement thereof was seriously in question.

A state statute provides, in relevant part, that the relationship of parent and child exists between a person and the person's natural parents, regardless of the marital status of the natural parents. A second state statue provides, however, that a parent does not inherit from or through a child on the basis of the parent and child relationship if certain conditions exist, including "the parent did not acknowledge the child." A third state statute articulates the criteria for determining whether a person is a "natural parent" within the meaning of the other two statutes, and one possibility under that statute is "a court order was entered during the parent's lifetime declaring parentage."

The court found Sohntee provided credible testimony that he is Jazlynn's biological father, but he "did not introduce any credible evidence that he took on any parenting responsibilities or provided any support for Jazlynn," and that he failed to establish by clear and convincing evidence that he openly held out Jazlynn as his child. The court determined that a default judgment entered in a 2011 child support action was not a qualifying court order determining parentage because it was entered in a child support action. Having determined that, the trial court did not rule on the issue of whether Sohntee had acknowledged Jazlynn as his child. Sohntee appealed.

The court of appeal determined that declarations of parentage in child support proceedings satisfy the state statute to show that Sohntee is Jazlynn's natural father, but that the trial court neglected to determine whether Sohntee had acknowledged Jazlynn as his child and could therefore inherit. Reversed and remanded.