

## ATTORNEY BIOGRAPHY



### Lisa M. Neeley

Partner

**Tel:** 508.929.1621 | **Fax:** 508.772.0488 | **Email:** lneeley@mirickoconnell.com

**Worcester Office:** 100 Front Street | Worcester | MA | 01608-1477

### Legal Administrative Assistant

Lynn M. Burns

Tel. 508. 929.1635 | Email: lburns@mirickoconnell.com

### Education

JD, *cum laude*, New England School of Law (2006); Senior Literary Editor, New England Journal on Criminal and Civil Confinement.

BA, *cum laude*, Assumption College (2003)

### Bar and Court Admissions

Massachusetts

U.S. District Court for Massachusetts

### Professional/Community Affiliations

The American College of Trust and Estate Counsel, fellow

Worcester County Bar Association

Massachusetts Bar Association

National Academy of Elder Law Attorneys, Massachusetts Chapter, Board of Directors, Advocacy Committee Member, Public Policy Committee member

Estate and Business Planning Council of Worcester County, member

### Practice Groups and Specialty Areas

Elder Law

Trusts and Estates

Estate Planning

Probate Administration

Lisa is a partner and chair of the Firm's Trusts and Estates Group. She focuses her practice on elder law with an emphasis on Medicaid applications and appeals, estate and special needs planning, probate administration, and guardianship and conservatorship proceedings.

Lisa's area of expertise is focused in the preparation and filing of complex MassHealth applications, and in providing client representation in appeals of applications that have been denied for a variety of legal reasons. Lisa also represents fiduciaries and beneficiaries who challenge MassHealth estate recovery actions. To that end, Lisa has successfully represented clients in appeals regarding benefit eligibility issues before the Office of Medicaid Board of Hearings, the Massachusetts Superior Court, the Massachusetts Appeals Court, and the Massachusetts Supreme Judicial Court. Additionally, Lisa has been retained to serve as an expert witness with regard to Medicaid eligibility and trust fiduciary litigation matters.

In addition to her elder law practice, Lisa routinely assists clients of all ages in the preparation of estate and long-term care planning documents, including powers of attorney, health care proxies, wills, and trusts used to accomplish a variety of planning goals. Lisa also advises special needs individuals regarding estate planning documents best suited for the lifetime management of funds, while maintaining eligibility for government benefits. She appears in Probate Court to represent individuals and families in guardianship and conservatorship proceedings, estate administration, and fiduciary litigation matters.

Lisa frequently speaks to bar associations, attorneys, and financial professionals regarding long-term care and estate planning topics. She has published several law review articles concerning long-term care planning and Medicaid eligibility topics. Lisa has been quoted in the Boston Globe, Washington Post, Law 360, and Massachusetts Lawyers Weekly.

Lisa is an active member of the Massachusetts Chapter of the National Academy of Elder Law Attorneys (NAELA), and serves on the organization's public policy committee and litigation committee. In 2016, Lisa was a recipient of NAELA's John J. Ford Litigation Advocacy Award in recognition of her dedication and commitment to people as they age and for individuals with special needs. Lisa has been named a Massachusetts "Super Lawyer" by *Boston* magazine and *Law & Politics* since 2018. In 2021, Lisa was selected a "Lawyer of the Year" by *Massachusetts Lawyers Weekly*.

Prior to joining the Firm, Lisa was an Officer with Fletcher Tilton PC.

### Representative Matters

- Fournier v. Sudders, 488 Mass. 43 (2021), Lisa prevailed on behalf of her client in a 2021 SJC case in which the Court ruled that a retained limited power of appointment to charities/non-profit organizations in an irrevocable trust was not countable in a Medicaid eligibility determination.
- Guilfoil v. Sudders, 486 Mass. 788 (2021), Lisa prevailed on behalf of her client in a 2021 SJC case in which the Court ruled that a nominee trust was not countable in a Medicaid eligibility context.

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### Representative Matters (continued)

- Dermody v. EOHHS & Another, 36 Mass. L. Rptr. 183, 2020 WL 742194 (Middlesex Superior Court, January 16, 2020). Lisa represents the plaintiff in a case involving the determination of reimbursement from a spousal annuity at the death of a community spouse for Medicaid purposes.
- Daley v. Executive Office of Health and Human Services & another (Nadeau v. Director of the Office of Medicaid), 477 Mass. 188 (2017). Lisa successfully argued before the Massachusetts Supreme Judicial Court on behalf of the Plaintiff, Lionel Nadeau, regarding a challenge by Medicaid to the use of an irrevocable trust in a long-term care benefit eligibility determination. The case established the precedent that a residence held in an irrevocable trust should not be treated as a countable resource in a Medicaid benefit eligibility determination because the grantor retained a life estate or the ability to use and occupy the residence held in the trust.
- Heyn v. Director of the Office of Medicaid, 89 Mass. App. Ct. 312 (April 15, 2016). Lisa successfully represented the plaintiff in obtaining a reversal of a prior Medicaid denial as a result of resources held in an irrevocable trust. The case established the precedent that resources held in an irrevocable trust should not be considered countable in a Medicaid benefit eligibility determination simply because the trustee can purchase an annuity with trust assets, or allocate between principal and income.
- Regularly represents clients in all phases of complex long-term care and community based Medicaid applications.
- Provides representation at Medicaid appeals before the Board of Hearings, Superior Court, and Massachusetts Appellate Courts.
- Represents fiduciaries and beneficiaries in disputes with MassHealth estate recovery concerning contested probate claims.
- Provides representation in probate court to obtain guardianship and conservatorship for the purpose of assisting with long-term care planning goals, and in fiduciary and beneficiary litigation matters.
- Prepares estate and long-term care planning documents, such as wills, trusts, powers of attorney, and health care proxies to assist with client goals of asset preservation and continued lifetime management of funds.
- Advises individuals with special needs on proper estate and long-term care planning techniques with consideration of continuing public benefit eligibility issues, such as SSI, SSDI and MassHealth.
- Serves as an expert witness in regard to Medicaid, long-term planning, and fiduciary litigation matters.
- Represents individuals involved in nursing home litigation matters regarding payment disputes and resident rights issues.

### Publications/Presentations

- Quoted in “SJC once again has MassHealth in its crosshairs,” *Massachusetts Lawyers Weekly*, January 28, 2022
- “Drafting Successful Medicaid Trusts,” MCLE (presenter) (December 7, 2021)
- “MassHealth Update,” Massachusetts Bar Association Probate Law Conference (November 9, 2021)
- “Medicaid Law Update,” HalfMoon Education (chair and presenter) (October 22, 2021)
- MA Guardianship Association Annual Conference (Keynote Speaker) (September 24, 2021)
- “Considerations After Death: Learn About the Latest Developments Regarding Spousal Annuities and Estate Recovery,” NAELA’s Annual Elder Law Institute (co-presenter) (September 24, 2021)
- Quoted in “SJC Hands MassHealth Another Defeat in ‘War on Trusts,’” *Massachusetts Lawyers Weekly*, July 29, 2021
- “Medicaid & Healthcare Planning Update 2021,” MCLE webcast program (June 2021)
- “[Nominee Trusts and MassHealth](#),” *On Air with Mirick O’Connell* legal podcast (March 22, 2021)
- Quoted in “MassHealth Loses Latest Battle in ‘War on Trusts,’” *Massachusetts Lawyers Weekly*, February 18, 2021
- “Latest Techniques for Middle Class Estates,” MCLE Webinar (February 3, 2021)
- “MassHealth Update 2020,” Half Moon Seminar (chair) (December 9, 2020)
- “Drafting Successful Medicaid Trusts,” MCLE Panel (chair) (December 8, 2020)
- “Medicaid Update,” Massachusetts Bar Association Eighth Annual Probate Law Conference (November 11, 2020)
- “[Medicaid Estate Recovery: Friend or Foe?](#),” *ACTEC Law Journal*, Fall 2020
- “Making Money Last, America’s Retirement Resource,” WRCN Radio (guest) (June 3, 2020)
- “Update on the latest litigation about naming annuity beneficiaries when applying for MassHealth,” Mass NAELA Lunch & Learn webinar (May 20, 2020)
- “[Key Nursing Home and MassHealth Issues Amid COVID-19](#),” *On Air with Mirick O’Connell* legal podcast (May 18, 2020)
- “Medicaid and Healthcare Planning Update 2020,” chaired MCLE panel, (May 18, 2020)
- “Protecting the Elderly: Coronavirus and Nursing Homes,” Mirick O’Connell’s Massachusetts Injury Lawyer Blog, April 22, 2020

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### Publications/Presentations (continued)

- “The Coronavirus Crisis: Changes to Long-Term Care and Estate Planning,” Mirick O’Connell Client Alert, March 18, 2020
- “Latest Techniques for Middle Class Estates,” MCLE (February 5, 2020)
- “Current Trends in MassHealth and Estate Recovery Litigation,” Estate and Business Council of Worcester County (January 30, 2020)
- “MassHealth Estate Recovery Litigation,” Massachusetts NAELA (January 29, 2020)
- Quoted in “State can’t take annuity for spousal MassHealth costs,” *Massachusetts Lawyers Weekly*, January 23, 2020
- “Drafting Successful Medicaid Trusts,” MCLE (December 2019)
- “MassHealth Update,” Massachusetts Bar Association Seventh Annual Probate Law Conference (November 2019)
- “2019 MassHealth Update,” Half Moon Seminar (chair and presenter) (October 2019)
- “Protecting Assets While Applying for Medicaid,” National Business Institute, October 2019
- Quoted in “Elder law bar: MassHealth ‘war on trusts’ rages on,” *Massachusetts Lawyers Weekly*, August 2019
- “Special Needs Trusts,” National Business Institute (May 2019)
- “How to Fix a Broken Trust,” MCLE (chair and presenter) (April 9, 2019)
- “Drafting Successful Medicaid Trusts,” MCLE (December 6, 2018)
- “MassHealth Update,” Massachusetts Bar Association Annual Probate Conference (November 9, 2018)
- “2018 MassHealth Update,” Half Moon Seminar (chair and presenter) (October 18, 2018)
- “Discussion of *Daley v. Executive Office of Health and Human Services*,” Boston Probate and Estate Planning Forum (January 3, 2018)
- “MassHealth Update,” Massachusetts Bar Association Fifth Annual Probate Law Conference (November 3, 2017)
- “Medicaid and Use of Irrevocable Trust in Long-Term Care,” NAELA Lunch and Learn Presentation (September 27, 2017)
- “Estate Planning 101: Trust Basics,” Massachusetts Bar Association (September 19, 2017)
- “Irrevocable Trusts in Long Term Care Planning,” Merrimack Valley Estate and Business Planning Council (September 11, 2017)
- “Recent Developments in the New England Region,” 2017 ACTEC New England Regional Meeting (September 9, 2017)
- “Use of Irrevocable Trusts in Long-Term Care Planning – History and New Developments,” Boston Estate Planning Council (August 23, 2017)
- “Discussion of the Daley Decision,” Massachusetts NAELA Webinar Program (June 28, 2017)
- “1st Look at What the Daley and Nadeau Decisions Mean to Irrevocable Trusts and Medicaid Planning,” MCLE Presentation (July 18, 2017)
- Quoted in “[Bar wary even after SJC rules against agency](#),” *Massachusetts Lawyers Weekly*, June 8, 2017
- Quoted in “[Mass. High Court Delivers Win For Seniors in Medicaid Row](#),” *Law360*, May 30, 2017
- Quoted in “SJC ruling is a win for seniors seeking nursing home coverage,” *The Boston Globe*, May 2017
- “Protecting Assets While Qualifying for Medicaid,” National Business Institute (NBI) Presentation (May 22, 2017)
- “Powers of Guardians and Conservators,” Guardianship and Conservatorship Practice Under the Massachusetts Uniform Probate Code, MCLE, 2017 supplement (co-author)
- “Limiting State Medicaid Agency Attempts to Expand the “Any Circumstances” Test: An Analysis of Massachusetts’ Multiyear Legal Battle Over the Use of Irrevocable Trusts in Long-Term Care Planning,” *NAELA Journal*, Volume 13, No.1, Spring 2017
- Quoted in “The GOP Plan to Roll Back Medicaid Might Force More Couples to Get Divorced,” *The Washington Post*, March 2017
- “Legal Intersection of Medicaid Eligibility and Special Needs Planning,” Association of Developmental Disability Providers (February 21, 2017)
- “Proposed MassHealth changes will make qualifying for long-term care more difficult,” *Community Advocate*, February 3, 2017
- Featured in “Elder Law Bar Hoping SJC Turns Tide in War on Trusts,” *Massachusetts Lawyers Weekly*, January 27, 2017
- “Irrevocable Trusts for Medicaid Planning,” Massachusetts Bar Association Fourth Annual Probate Law Conference (November 18, 2016)
- “Medicaid Planning,” National Business Institute (NBI) Presentation (November 4, 2016)
- “Current State of Irrevocable Trusts and Long-Term Care Planning,” Estate and Business Council of Worcester County (November 3, 2016)
- “Revocable Living Trusts from Start to Finish,” National Business Institute (NBI) Presentation (October 19, 2016)

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### Publications/Presentations (continued)

- [\*“Heyn v. Director of the Office of Medicaid: Massachusetts Appeals Court Holds That the Power to Purchase an Annuity Does Not Render the Corpus of an Irrevocable Trust a Countable Resource,”\* NAELA Journal](#), Volume 12, No. 2, Fall 2016
- “Medicaid Appeals,” Annual Massachusetts NAELA Litigation Workshop Presentation (August 26, 2016)
- “Irrevocable Trust Planning Update,” Montachusett Estate and Retirement Planning Council Presentation (June 16, 2016)
- “Medicaid Trust Planning in Light of Roche: Free at Last or Bumps Ahead,” MCLE Presentation (May 20, 2016)
- “Trends in Long-Term Care Planning with Irrevocable Trusts,” Boston Bar Association Presentation (May 17, 2016)
- Featured in “MassHealth’s Termination of Medicaid Benefits Overturned, Elder law bar wins key battle in fight over irrevocable trust,” *Massachusetts Lawyers Weekly*, April 25, 2016
- Featured in “Fletcher Tilton Lawyers Win Tug-of-War with MassHealth,” *Worcester Telegram & Gazette*, April 24, 2016
- “Medicaid Planning,” National Business Institute (NBI) Presentation (April 20, 2016)
- “Update on Current Medicaid Trends,” Massachusetts Chapter of NAELA Presentation (January 27, 2016)
- “Estate Planning for the Aging or Incapacitated Client in Massachusetts,” MCLE *Basic Practice Manual*, Chapter 14 (Housing Options), 2015 Supplement (co-author)
- “Medicaid and Elder Law: Representing Clients in a New Legal Landscape,” Lorman Education Services Presentation (April 2012)