



ATLANTA BAR ASSOCIATION

LAWYERS WHO SERVE
Estate Planning & Probate Section

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Estate Planning & Probate Section

Save the Date!

Mark your calendars for the following **Estate Planning & Probate Section Breakfast Meeting at the Buckhead Club.**

Details are subject to change. Check your emails and the Atlanta Bar Association website for updates.

"Interesting Tangible Property"

Wednesday, December 11, 2013 (7:30 am - 9:00 am)

Speaker: Michael Duffy,
Goldman Sachs

Section Member: \$9 in advance, \$12 at the door

Non-Section Member: \$50

Add \$5 to receive 1 CLE hour

[Register online](#) and [view more information](#).

Estate Planning for Busy Executives

by Lisa Brown, CFP®, CIMAŽ, Partner, Brightworth



EDITOR'S NOTE: Lisa Brown and David Polstra of Brightworth presented this topic at the Section's February 2013 breakfast meeting. Ms. Brown also provided this write up at our request, and a copy of the presentation materials may be downloaded from the Section's website. We are very grateful to Ms. Brown, Mr. Polstra, and

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the rest of the Brightworth team for their extensive support of our Section and for sharing their knowledge with us.

One of the most common phrases I hear from executives is: "Lisa, I am so busy with my career and my family life that I do not have time to understand how all of my company compensation and benefits plans work, much less understand how they should be coordinated with my overall financial strategy." This is one of the areas in which our firm excels.

[View the entire article](#) and [view CLE materials](#)

Vanessa Goggans Discusses "Real Estate Issues for the Estate Planner"

by Loraine M. DiSalvo, Morgan & DiSalvo, P.C.



For our March 2013 breakfast, the Section welcomed self-proclaimed "dirt lawyer" Vanessa E. Goggans, of Morris, Manning & Martin, LLP, who discussed various real estate issues about which we estate planners should be aware and careful. Ms. Goggans covered

a wide array of topics. Here are a few of the highlights:

* Georgia does not have true mortgages. Instead, a deed to secure debt is issued by the borrower against real estate he or she owns, and the deed to secure debt creates the security interest that is held by the lender.

[View the entire article](#) and [view CLE materials](#)

Professor Mary Radford Presents "Recent Developments in Fiduciary Law"

by Jordan Alford, Georgia State University College of Law, J.D. 2013

On April 24, 2013, our Section luncheon featured Mary F. Radford, past president of the American College of Trust & Estate Counsel and Marjorie Fine Knowles Professor of Law at Georgia State University College of Law. Professor Radford once again gave her annual address on developments in Georgia Fiduciary Law. This year Professor Radford provided both an extensive report on recent legislative changes and a comprehensive review of case law decisions that have the potential to impact our clients.

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John A. Terrill, II Shows Our Section "Asset Protection Planning From An Estate Planner's Perspective"

by Loraine M. DiSalvo, Morgan & DiSalvo, P.C.

At the Section's April 2013 breakfast meeting, John A. Terrill, II of Heckscher, Teillon, Terrill & Sager, P.C. discussed asset protection planning and what estate planning attorneys need to know about it. This was an extensive and informative presentation that produced a number of audience questions.

Mr. Terrill began by stating that he got involved with asset protection after Delaware began to make changes in its laws designed to attract trust business to the state. Mr. Terrill's office, located in West Conshohocken, Pennsylvania (outside Philadelphia), is close to Delaware, and many of his clients began to ask him for "Delaware trusts," by which they generally meant self-settled asset protection trusts.

[View the entire article](#) and [view CLE materials](#)

Adult Guardianships and Conservatorships From Start to Finish

by Millie Baumbusch, Gaslowitz Frankel LLC



Our May 8, 2013, Section breakfast featured a panel presentation on adult guardianships and conservatorships, with Judge Jeryl Rosh of the DeKalb County Probate Court, along with Brian M. Deutsch and Millie Baumbusch of Gaslowitz Frankel, LLC. The speakers did indeed cover the topic from start (pre-filing considerations) to finish (post-appointment duties and the termination of guardianships and conservatorships).

The Probate Courts in Georgia appoint many guardians and conservators through uncontested proceedings, but of course it is in the contested cases that problems arise. Prior to becoming involved in a guardianship or conservatorship case, attorneys should be clear about who their client is.

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Bruce Gaynes and Dr. Richard Cohen Take Our Section "Beyond Advance Directives," To Learn About Georgia's Physician Orders for Life-Sustaining Treatment

by Everett L. Morris, The Saylor Law Firm, LLP



On June 12, 2013, our Section breakfast featured two speakers: Bruce H. Gaynes, Esq., of Kitchens Kelley Gaynes, P.C. and Richard W. Cohen, M.D., the Founder of the Wellstar Health System Total Joint Replacement Program and Medical Director for the Wellstar Ethics Program. They spoke about Advance Directives for Health Care ("ADHC") and Physician Orders for Life-Sustaining Treatment ("POLST").

Mr. Gaynes led off with the legal history and background of ADHCs and how they came to be in Georgia. In 1984 the Living Will Statute was passed, and in 1990 the Durable Power of Attorney for Health Care

Act was passed. Both were replaced by the Georgia Advance Directive for Health Care Act in 2007, although Living Wills and Durable Power of Attorneys for Health Care executed prior to July 1, 2007 remain valid.

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Professor Sam Donaldson Offers Timely Planning Advice at Ninth Annual Forum

by Shelly Nixon Donaldson, Lefkoff, Duncan, Grimes, McSwain & Hass, P.C.



Sam Donaldson, a professor at Georgia State University College of Law, spoke on important year-end estate planning strategies at the Ninth Annual Estate Planning Forum on October 23, 2012, at the Cobb Energy Center. At the time of the Forum, you will remember, estate planners were concerned about the expiration of the Bush tax cuts and much of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the "2010 Act"). The 2010 Act not only revived the federal estate and generation-skipping transfer taxes and made them retroactive to January 1, 2010, but also introduced a \$5 million exclusion amount for federal estate, gift, and generation-skipping transfer taxes applicable for 2011.

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Private Foundation Tips, Tricks, and Traps

by Millie Baumbusch, Gaslowitz Frankel LLC

Our August breakfast featured an engrossing presentation by Cassady V. ("Cass") Brewer, Assistant Professor at Georgia State University College of Law, and Nicole Motter, Staff Attorney at Morris Manning & Martin. They discussed many aspects of private foundations that are of interest to our members, including program-related investments, the income tax treatment of charitable contributions to private foundations, and a host of related issues.

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Case Law Updates

by Francis M. Bird, Jr.

Hasty v. Castleberry, ___ Ga. ___ (2013), Decided October 7, 2013, Case Nos. S13A0989, S13A1189, S13A1190.

Mismanagement of Trust Assets

An appeal of the Superior Court's decision in these consolidated cases resulted in this detailed opinion. A remainder beneficiary brought suit against the trustee of a marital trust, the executor of mother's estate, and the holder of mother's power of attorney. The beneficiary sought only money damages for breach of trust and overpayment of fees. The Court held that this suit was governed by six-year statute of limitations (rather than two-year statute). The trustee's actions in borrowing cash, pledging trust assets as security, loaning cash to mother (using power of attorney), and then making donation to college (where trustee was a board member), were not authorized by trust provisions and constituted breach of trust.

[View the entire article](#)

