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Estate Planning & Probate Section

A Discussion on Trust Administration

By Julia Hightower, Hendrick, Rascoe, Zitron & Long, LLC

On December 7, 2015, a full house gathered for a panel discussion led by Melissa P. Walker with Salo & Walker. Ms. Walker, along with Nikola Djuric with Sutherland Asbill & Brennan and Patricia D. Friedman with The Bowden Spratt Law Firm provided our section with a wonderful overview of practical considerations in trust administration.

The panel began the morning by discussing scenarios that might lead a practitioner to recommend the creation of a revocable trust. The panel suggested that when clients are 85 or older, or approaching incapacity, revocable trusts make the most sense from an asset management perspective. Whereas an incapacitated adult would require a conservator, the revocable trust allows for a more seamless transition that avoids the difficulties practitioners experience with banks reluctant to accept financial powers of attorney that do not mirror their own forms. While avoidance of probate is often touted as a benefit for revocable trusts, it seems more often than not that one piece of property escapes the move into a revocable trust and probate is still necessary. For example, while bank accounts are often re-titled upon the initial creation of a revocable trust, as clients change brokers or open new accounts, they forgetfully put the bank account back into their own names. Real property can also cause the practitioner headaches when funding revocable trusts.

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The 12th Annual Estate Planning Forum Focused on Planning With S Corporations and Partnerships

By Loraine M. DiSalvo, *Morgan & DiSalvo, P.C.*



On November 3, 2015, the Estate Planning and Probate Section joined with the Tax Law Section of the Atlanta Bar Association and Diversified Trust Company for the 12th Annual Atlanta Estate Planning Forum. The event featured a panel discussion of the many issues and opportunities presented when

conducting estate planning involving S corporations and partnerships. Moderator Steven B. Gorin of Thompson Coburn, LLP (sgorin@thompsoncoburn.com or 314-552-6151) (pictured above) joined panelists William C. Lankford, Jr., CPA of Moore Stephens Tiller, LLC (blankford@mstiller.com or 404-256-1606), Brook H. Lester, CPA, JD of Diversified Trust Company (blester@diversifiedtrust.com or 901-761-7979), and William A. Turner, JD, LLM of Cohen Pollock Merlin & Small, PC (tturner@cpmas.com or 770-858-1288) for an information-packed discussion. This article can touch on only a very few highlights.

[Read entire article](#)

Adult Guardianships: Pointers and Pitfalls

By Millie Baumbusch, *Gaslowitz Frankel LLC*



Our January breakfast featured Brian Deutsch, of counsel at McCurdy & Candler, LLC, presenting a "pointers and pitfalls" guide to adult guardianships and conservatorships. Mr. Deutsch started with issues to consider prior to filing petitions, included a variety of factual and legal issues to be considered during the process of seeking a guardianship or conservatorship, and concluded with tips on post-appointment actions.

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To begin, Mr. Deutsch explained that the probate court may, upon petition of any interested party, impose a guardianship (for medical decisions) or a conservatorship (for financial decisions) on an adult when the probate court finds that the adult is unable to make or communicate significant responsible decisions concerning his or her health or assets. Prior to initiating guardianship or conservatorship proceedings, Mr. Deutsch advised that attorneys review Rule 1.14, Client With Diminished Capacity, if asked to represent a proposed ward.

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Georgia Law Prevents the Power to Appoint to be Gifted in a Will - *Smith v. Ashford et al.*, --- S.E.2d--- (February 1, 2016)

By Mairin Ashley McGinley, UGA College of Law

In February of this year, the Supreme Court of Georgia held that a will provision that purported to grant a testator's widow a power to appoint a trust assets at the testator's death was invalid due to the original trust donor's intent. However, the testator effectively exercised his testamentary power of appointment after his death to devise trust property to his children upon failure of his wife's power to appoint through language in his will.

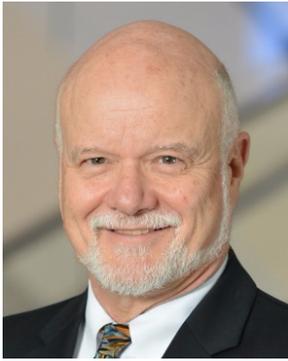
In *Smith v. Ashford et al.*, ---S.E.2d--- (February 1, 2016), the testator was survived by his wife and two minor daughters. At the time of the testator's death, he was the beneficiary of a trust established by his parents containing an LLC. This trust had provisions which granted the testator an unrestricted testamentary power of appointment of the trust's assets remaining after his death. When the testator died, his wife probated his will and a Guardian Ad Litem was appointed to represent the minor children's interest.

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Charles R. Beaudrot, Jr., of Morris, Manning & Martin, LLP, presents "Exit Strategies for Business"

By Mairin Ashley McGinley, UGA College of Law

The Atlanta Bar Association's Estate Planning and Probate Section was pleased to welcome Charles R. Beaudrot, Jr. of Morris, Manning & Martin, LLP as our speaker at the November 11, 2015 section breakfast. Mr. Beaudrot put on an informative presentation, discussing exit strategies for



businesses. Mr. Beaudrot expressed the difficulty in the choice of entity as well as discussing the several methods of exiting a business. The choice of entity can be tricky, as it requires having knowledgeable insight about the future and the exit strategy a business wishes to take, as the

method of exit is essential in the choice of entity. Of the methods of exits, Mr. Beaudrot discussed asset sales, a taxable equity sale, a stock deal in a tax deferred reorganization and IPOs. He expressed that the strategical part of choosing a method for an exit strategy starts with the choice of entity. Mr. Beaudrot conveyed the different pros and cons to each method and entity along with helpful tips to guide the business owner along the way.

[Read entire article](#)



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