



# ATLANTA BAR ASSOCIATION

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Estate Planning & Probate Section

July 2013

## The Mortmain

Official Publication of the Atlanta Bar Association  
Estate Planning & Probate Section

### Save the Date!

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

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

**Wednesday, August 14, 2013**

**"Private Foundation Tips, Tricks, and Traps"**

**Speakers:** Cassady V. ("Cass") Brewer  
Assistant Professor, GSU College of Law

Nicole Motter  
Morris, Manning and Martin, LLP

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

Wednesday, September 11, 2013  
Wednesday, October 9, 2013  
Wednesday, November 13, 2013  
Wednesday, December 11, 2013  
Wednesday, January 8, 2014  
Wednesday, February 12, 2014  
Wednesday, March 12, 2014  
Wednesday, April 9, 2014  
Wednesday, May 14, 2014

### Case Summaries

by Francis M. Bird, Jr., Attorney at Law

**Patterson-Fowlkes v. Chancey, 291 Ga. 601,**

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## \_\_\_ S.E.2d \_\_\_ (2012)

**Testamentary Capacity.** In affirming a Superior Court judgment based on the jury's verdict rendered on appeal from an order of the Probate Court upholding the validity of a will, the Supreme Court applied and enunciated established principles.

The testatrix was 90 years old when she executed the will at issue in the case. She apparently had showed some signs of dementia, but was able to identify by name her children and grandchildren, although she was wrong respecting some of their ages. She stated that she owned "quite a bit" of property, and apparently erroneously stated that she had purchased some acreage for the caveator and for her brother.

[View the entire article](#)

## Exit Strategy Planning: Achieving Optimum Value for Your Business

By Gwen Holland, *Holland Roddenberry LLC*



Denis M. Brown with Abraxas Business Services gave an outstanding presentation at the Estate Planning and Probate Section breakfast on January 9, 2013, titled "Exit Strategy Planning: Achieving Optimum Value for Your Business."

Mr. Brown explained that exit strategy planning coordinates and integrates business planning and estate planning based on the business owner's objectives. He noted that 67% of business owners of firms with revenues from \$5 million to \$150 million plan to leave their business within the next 10 years but that more than 75% of them have not done much planning for what will be the most significant financial event of their lives.

[View the entire article](#)

## Stephanie B. Casteel Speaks to Section About Premarital Agreements

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

For our October 2012 breakfast, the Section welcomed Stephanie B. ("Stevie") Casteel, of Wallace, Morrison & Casteel, LLP. Ms. Casteel discussed premarital agreements (often called

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prenuptial agreements or "prenups"): what they are, why your clients should consider using them, and issues which you should consider in advising clients about and drafting these agreements. She also briefly discussed post-nuptial agreements and cohabitation or domestic

partnership agreements, which are similar, but not identical, to prenuptial agreements in the issues which must be addressed, but which can be subject to different standards of enforceability.

[View entire article](#)

## **Protecting a Medically Fragile Client's Right to Self-Determination**

by Millie Baumbusch, *Gaslowitz Frankel, LLC*



We invited Vergena Montgomery Clark, the owner and Managing Director of IKOR of Central Atlanta, to speak at our Section breakfast on September 12, 2012. Ms. Clark's presentation, "Strategies for Protecting Medically Fragile Client's Rights to Self-Determination," was very informative.

Ms. Clark began by comparing the medical and legal contexts for determining capacity. Medically, a judgment about capacity is made by a physician, and it generally relates to a specific medical decision at hand, rather than a determination about the person's ability to make decisions about healthcare matters or other matters.

[View the entire article](#)

## **Professor Pennell Gives Section Recent Wealth Transfer Developments**

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

On August 16, 2012, our Section had a special luncheon meeting, at which Professor Jeffrey N. Pennell of the Emory University School of Law gave us an update on recent developments in the wealth transfer arena. At that time, the future of the estate, gift, and generation-skipping transfer tax laws was highly uncertain, with the "sunset"



provisions for the 2001 and 2010 laws still firmly in place and the November elections in which both the White House and many seats in the federal House and Senate were up for possible changes of hand.

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