



ELVILLE  
AND ASSOCIATES

# THE ELVILLE BENEFACTOR

*Planning for Life, Planning for Legacies*

Issue 02 Spring 2012

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## SAVE THE DATE - September 18, 2012 Client Education Event

Please join us on **Tuesday, September 18, from 6:00 p.m.- 8:00 p.m.**, at Linden Hall, located at 4765 Dorsey Hall Drive, Ellicott City, Maryland 21042, for our first Annual **Client Education Event**. The agenda will include: opening remarks, updates in Maryland law, a brief funding exercise, discussion about the Client Advisory Committee, the main presentation - **“How to be a Trustee” (How to be a Fiduciary)**, and in closing, a brief question and answer session. The Client Education Event is part of Elville & Associates’ philosophy of continuing client education and Legacy Planning and is your chance to bring children and other beneficiaries, your fiduciaries (trustees, personal representatives, agents under powers of attorney and Advance Medical Directives), professional advisors, and others into contact with the ideas and concepts behind your planning and the attorneys at your law firm. Food and refreshments will be served. Limited on-site counseling will be available. Please RSVP as soon as possible by calling Mary Guay Kramer at **443-393-7696** or via email at [Mary@elvilleassociates.com](mailto:Mary@elvilleassociates.com). ***We look forward to seeing you at this exciting Event!***

## The Elville Legacy System – What Clients Need To Know

By Stephen R. Elville, J.D., LL.M.



Legacy Planning means many things, among them these: planning that works as intended from beginning to end; providing a personalized planning structure for loved ones; passing along one’s values through planning; providing a shell of protection (asset protection) for the shares of spouses, children, grandchildren, and other beneficiaries; maximizing the tax advantages of hard-earned retirement savings; and more. In this article, I will focus on the first of these – the need for plans to work as intended by the client and why most estate plans fail.

Most estate planning attorneys are “traditional” estate planners – meaning that they adhere to a philosophy that advocates a two or three meeting process to accomplish their clients’ estate planning. Considering that most people have no estate plan whatsoever, one could argue that the traditional approach is “better

than nothing”. However, a closer look reveals the first of several “truths” about estate planning: traditional estate planning (hereinafter referred to as “TEP”) rarely works as intended. Right here, let me stop and ask a question that will be revealing about TEP. If an attorney is meeting an individual or couple for the first time and just beginning the estate planning process, what are the chances that he or she can (1) really get to know the client(s) and address their concerns, (2) provide a thorough overview of the planning process and paint a comprehensive picture of all the choices and planning options available to the client(s) in modern estate planning, (3) understand the client’s particular family dynamics, (4) develop initial drafts of the estate planning documents, (5) review the initial draft documents with the client(s), (6) make appropriate adjustments to the documents, (7) review revised documents with the clients at least twice, (8) prepare the final version of the documents for signing and meet with the client(s) to execute the

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## The Elville Legacy System (continued)

documents, (9) thoroughly understand the client's assets and meet with the clients to sign all plan funding documents, and (10) meet with the client's family in person or via conference call for a post-signing family meeting - all within two or three meetings comprising only four to six hours of total time?

Answer - such a task is impossible within this limited time frame.

TEP is analogous to tilling the soil, planting a garden, then never returning to the garden plot to tend to the weeds or water the plants; then, at the end of the season, coming back to pick the tomatoes, beans, corn, and other vegetables with the expectation of an abundant harvest. In this absurd scenario, the problem is obvious – in our hypothetical unmaintained garden, at harvest time there would be few, if any, vegetables that would have survived the tests and hazards of time. Of course, we might be surprised by the presence of some plants that might have survived by finding shade or by extracting moisture from other plants. But overall, these successes would be random and highly unlikely. The same principle is true in estate planning. From the few statistics available, the average person who has an estate plan (remember that the majority of people do not) revisits or updates their estate plan only once every nineteen (19) years! Our internal comparisons validate this statistic. Considering just one of the major aspects of estate planning - tax planning - this means that an individual or couple who developed their estate plan in the 1990s or in the early 2000s would statistically not have updated their estate plan during the nineteen (19) year period following the implementation of the plan, thereby failing to adjust or update their plan during a period of rapidly changing state and federal estate tax laws from 2001 through the present. So just like our garden example, TEP is planning that results in random outcomes. Conversely, legacy planning is planning for certainty.

So far we have identified that one of the “truths” of estate planning is that estate plans have to be maintained/updated. But why does TEP fail to take maintenance and updating into consideration when doing so is the key to success in the planning process? The answer to this question represents another “truth” of estate planning: most people receive no education from their attorney – therefore, the TEP cycle continues from generation to generation. We have already described this “TEP cycle” as planning based on limited contact with the client and therefore limited output from attorney to client; or, having no estate planning at all – as is the case with the majority of people. Now let's discuss the issue of client education.

Education is the key to Legacy Planning. With education, clients have a much better understanding of their estate plans and how they work; clients are vested stakeholders in their plans and not mere bystanders who receive completed

documents from an attorney, many times in a paternalistic manner. Most importantly for the majority of clients, children become involved and vested in the planning process of their parents and gain an understanding of the unique protective management structures that their parents have provided for them – how to be a trustee, how to manage trust assets, what are the pitfalls, tax consequences, and more. Without education, the best plans, no matter how sophisticated, will fail. So why do most estate planning attorneys fail or refuse to thoroughly educate their clients? The answer to this question is two-fold – one is that the vast majority of attorneys simply scoff at the idea of educating clients – this is mainly because of the culture attorneys live in and were trained in - a highly competitive environment where professional and academic prowess are given highest priority, and where simplifying advanced concepts for clients and their families for the purpose of minimizing generational problems and costly errors is not encouraged. The second is that (sadly) estate planning is driven by economics – this is hugely problematic on many levels as will be discussed below.

We will now discuss the most important “truth” of estate planning and the most important concept concerning estate plans that work: understanding the actual cost of estate planning. According to AARP magazine, the average cost of settling an estate in the United States is somewhere between four percent (4%) and seven percent (7%). These numbers do not take into consideration the cost of initial estate planning documents or the possibility of a court challenge. They only represent the cost of final administration. Let's take the conservative number, 4%. For a one million dollar estate, this means administration costs of \$40,000.00. This is simple enough, and expensive. Let's stop here and ask another question: why is the settlement of an estate so expensive? The answer is that it does not have to be. However, the reason for the such large expense in most cases is TEP. Remember that in TEP, there is no depth of process, little or no client education, no funding process, no maintenance and updating plan – in other words, in TEP, the planning is one-dimensional – a one-time transaction where the physical documents are considered “the plan” and are given priority over process, thought, purpose, and intention. Here is the reality of estate planning and the key to understanding Legacy Planning: estate planning comprises three (3) major phases, namely, (I) Plan development and execution (this includes funding the plan), (II) Continuing education, maintenance and updating throughout lifetime, and (III) Administration at death. The cost of estate planning is the actual cost of the entire plan, from inception, throughout lifetime, and until distribution after death. The person who views estate planning as merely a one-time transaction based on obtaining and storing physical documents alone is subject to the TEP trap. Those persons who understand the total cost concept

realize that the total cost of estate plan is directly related to their commitment to keeping the plan up to date, educating themselves and their loved ones throughout their lifetimes, avoiding costly mistakes and errors, and ultimately being rewarded by having their plan administered at death with minimal cost and complication. With proper Legacy Planning and a true understanding of the actual cost of estate planning, it is possible to significantly reduce the average cost of estate planning, including all three (3) phases of planning,

compared to the cost routinely associated with only the final administration portion alone. At Elville & Associates, we are committed to client education and Legacy Planning. In the following article, I will outline our Client Continuing Education and Updating Plan and provide more background about how reduction in the overall cost of planning can be achieved. For now, I'll leave you with one last question: *what's your Legacy?*

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## Elville Client Continuing Education and Update Program (UP)

By Stephen R. Elville, J.D., LL.M.

Elville & Associates is a client-education-centered estate planning and elder law firm. As most of our clients are aware, it is our core practice and belief that client education is the key to success in estate planning. As I outlined in the previous article, estate planning is a multi-step process of plan development, attorney-client interaction, purpose, intention, mutual commitment, lifetime education and the education of children and other beneficiaries, maintenance and updating, and ultimately final administration. Because estate planning is not the static process of "having documents", it is incumbent upon us at the Firm to be proactive in our clients' development by providing opportunities for education, frequent document update meetings, and to be available to our clients by telephone or electronic mail.

To that end, in 2011, Elville & Associates introduced the Client Continuing Education and Update Program (**UP**). To our knowledge, we are one of the only law firms in Maryland offering this kind of program. The process is simple:

1. Each year, clients and their family members are invited to attend our Annual Client Education Event (this year on September 18, 2012, at 6:00 p.m. at Linden Hall in Columbia, Maryland). At this annual event, clients are brought up to date on current laws affecting their estate and elder law plans, are provided with the opportunity

to ask questions, receive on-site counseling, and participate in a brief funding activity to ensure that any loose ends are addressed in funding, and enjoy a formal presentation on an important topic of interest. This year's topic is "How to be a Trustee" (How to be a Fiduciary).

2. Every other year, clients meet with one of our attorneys at our offices to update and review their estate plan. This may entail a simple amendment or change, or may involve a restatement of trust. Other possibilities include updating ancillary documents such as powers of attorney and health care directives, implementing life insurance or retirement plan trusts, or simply receiving counseling about another client concern.
3. Contact with your attorney(s) – during the year, participants may call our attorneys at any time to discuss concerns and address key questions.
4. Cost - \$495.00 per year. We have priced **UP** so that all clients can afford to participate. In terms of value, the cost represents two discounted hours of our attorneys' time per year.

Don't be left out. If you have not yet responded to our invitations to register for **UP**, please call Mary Guay Kramer at 443-393-7696 today. Thank you for your support and for being an active partner in your law firm!!

# Recent Cases of Interest to Fiduciaries

Barrett R. King, J.D.



When a person serves as Personal Representative of an estate, he or she enjoys protection from the claims of creditors of the recently deceased. As long as he follows certain rules regarding the presentation of claims from those creditors, the personal representative cannot be personally liable for any claims left unpaid because the deceased did not have sufficient assets to satisfy them, or for a creditor's failure to present its claim in a timely fashion. *Md. Code Ann., Est. & Trusts, §8-103, et seq.*

Some of the most problematic cases, however, can be those where there are assets left over after creditors' claims are satisfied, and ultimate legatees or heirs are waiting to receive their inheritances. Before a personal representative may make final distributions, he must submit an accounting to the Register of Wills, for approval by the Orphans' Court, showing all expenses and income of the estate from the date of decedent's death. *Id. at 7-301, et seq.* When that task is done, all legatees and heirs have an opportunity to take exceptions and challenge items in the account. Assuming none are filed or that the Orphans' Court approves the accounting all the same, the personal representative may still be sued by an interested person for various claims, and with no assets in the estate to defend himself with, he is left exposed to personal liability.

In the case of *Allen, et al. v. Ritter*, decided by the Maryland Court of Appeals in 2011, the personal representative required all beneficiaries to sign a contract releasing her from liability for acts performed in her role as personal representative. *Allen, et al. v. Ritter*, 424 Md. 216, 35 A.3d 443 (2011). The personal representative's demand was made pursuant to §9-111 of the Estates & Trusts Article, which allows a personal representative to "obtain a verified release" from any legatee or heir when making distributions from the estate. *Md. Code Ann., Est. & Trusts, §9-111*. Historically, as a matter of practice, the trouble has arisen when seeking the signatures on such releases from the legatees and heirs before making distributions.

The *Allen* Court decided that the Orphans' Court may order a legatee or heir to sign a release when requested to do so by the personal representative pursuant to §9-111. *Allen* at 231, 451. The Court held that the personal representative may require such a release in any case, but the release cannot include acts of fraud, material mistake, or irregularity by the personal representative. *Id. at 229, 450*. Consequently, as a personal representative, you are entitled to obtain releases from all legatees or heirs of an estate before making final distributions. This provides peace of mind that, absent some severe aberration or bad act, a personal representative can close an estate without any fear of reprisal or personal liability after making final distributions.

In another case decided in December of 2011, the Court of Appeals opined as to the rights of remainder beneficiaries of *inter vivos* trusts. In *Johnson v. Johnson*, the parties were a stepmother and her stepson, the latter of whom was a beneficiary of the trust. *Johnson v. Johnson*, 423 Md. 602, 32 A.3d 1072 (2011). The trust in *Johnson* was created by a husband and wife. Upon the death of the first to die, the trust was to be divided into two shares (sub trusts) for estate tax planning purposes, and the stepmother (Catherine) was entitled to all income and discretionary distributions of principal of both trusts during the remainder of her lifetime. At Catherine's death, the stepson, James, would be sole beneficiary. *Id.* at 603, 1073.

After his father's death, James made multiple requests to Catherine for an accounting of the trusts, but those requests went unanswered. He ultimately petitioned the Circuit Court to order an accounting. It is important to note that, after his father died, James had no current rights to income or principal from the trust; that is, he was a remainder beneficiary, not a current beneficiary receiving any benefit from the trust. Catherine defended herself by making this argument, questioning James' status as a party entitled to an accounting from the trust. The Circuit Court agreed with James and ordered Catherine to account. She appealed, ultimately, to the Court of Appeals, which denied the relief she sought on the grounds that an order to account is not a final judgment subject to appeal. *Id.* at 607, 1075.

While the Court of Appeals did not decide the issue, specifically, whether a remainder beneficiary like James is absolutely entitled to an accounting, this case makes it clear that a party who is not currently receiving any benefit from a trust may be entitled to an accounting at any point, provided that party *might* receive the benefit of the trust at some time in the future. This is important for clients in blended families to consider. Where two spouses with their own children from prior relationships create a trust, or trusts, where the survivor of the two will be a beneficiary, the survivor's stepchildren are in a position to demand regular accountings and to possibly second-guess the spending habits of the survivor for years to come.

The lesson to be learned from *Johnson* is that it may be beneficial to create a vehicle whereby your children will receive an inheritance upon your death, rather than having their inheritance rely upon your surviving spouse being frugal in his or her remaining years. Life insurance and other beneficiary designated assets, specific bequests, lifetime gifting trusts, QTIP trusts, independent co-trustees, and trust protectors, represent options that can address this problem.

If either of these recent cases raise questions about your own estate planning or your role as a fiduciary, please contact us for further counseling.

# To Gift or Not to Gift?

Helen Whelan, J.D., LL.M.



With all of the recent changes in the estate and gift tax laws, there is a lot of confusion about whether or not it makes sense to make gifts in 2012. In this brief article, we will address the basics of gifting and clarify those issues of most importance to clients.

First of all, what constitutes a “gift” in the context of gift tax? A gift of property (be it cash, personal property, or real property) occurs when the donor of the gifted property irrevocably gives up dominion and control of the property by transferring it to a donee. The donor cannot have the right to revoke or recall the gifted property from the donee. The gift must also be a present interest, which means that the donee must be able to use the gifted property immediately, free and clear of any type of contingency or restriction affecting its immediate use by the donee.

Next, what is gift tax? The gift tax is a tax imposed on the transfer of gifted property during your lifetime, the value of which property exceeds the gift tax exemption. The federal gift tax exemption for 2012 is \$5,120,000. Thus, you may gift up to \$5,120,000 of property during your lifetime without any gift tax due. However, that exemption amount is unified with the Federal estate tax exemption. Thus, if you gift \$2,000,000 during your lifetime and you die in 2012, then you will have no gift tax due, but you will in essence have reduced your estate tax exemption to \$3,120,000 (plus \$13,000 per donee – to account for the annual exclusion from gift tax discussed below). In Maryland and the District of Columbia, as well as most other states, there is no state gift tax.

One consideration in making gifts is the difference between the estate tax and gift tax. The estate tax is “inclusive” and the gift tax is “exclusive”. Estate tax is “inclusive” because taxes are paid on the money used to pay the estate tax. In the majority of cases, the estate pays the tax so the person receives less from a bequest. The gift tax is “exclusive” which means tax is not paid on the money used to pay the tax and the donee receives the full gift of \$100. Payment of gift tax is the responsibility of the donor. So the donee receives the full amount of the gift.

Many gifts are made by way of personal bank check. In order for a personal check to be considered a gift in the year intended (e.g. you want the gift to be applicable to 2012), the gift will be considered complete upon the earlier of (i) the time that the gift becomes irrevocable and the donor parts with dominion and control, or (ii) the date the donee deposits the check or presents it for payment, assuming that the check is paid when presented, the donor is still alive, and the check is deposited, cashed or presented in 2012. A personal check is not considered a completed gift if it is not paid or accepted by a drawee bank until after donor’s death. A personal check will not be

a completed gift in the year 2012 if the check is presented or cashed in 2013.

Certain property may not be considered a taxable gift. Donors can make annual gifts of cash or property in an amount up to \$13,000 per individual, regardless of the individual’s relationship to you. If you are married, you and your spouse can gift split and give a total of \$26,000 annually to an individual. For example, a husband and wife could give \$26,000 to their daughter, another \$26,000 to their son-in-law and another \$26,000 to each of their grandchildren. These “annual exclusion gifts” of up to \$13,000 per person do not count against the donor’s \$5,120,000 federal gift/estate tax exemption.

In addition to the \$13,000 annual exclusion amount mentioned above, donors can pay any amount of medical or education expenses on behalf of another, provided the payments are made directly to the institution for medical expenses or qualified education expenses. Further, donors can fund a 529 plan in amount up to \$65,000 in one year, which is essentially an advance of five annual exclusion gifts. However, any amount paid over the \$65,000 within that five year period will be a taxable gift.

Now that we have discussed some of the basic gifting rules, let’s discuss the advantages and disadvantages of gifting.

The advantages of gifting include the ability of a donor to reduce his or her estate by removing assets (including all subsequent income and appreciation related to the gifted asset) from the donor’s estate, which means that in many cases where the annual exclusion is intelligently used, estate taxes will be calculated on a smaller estate. The value of gifted assets is also “frozen” provided that the donor files a valid gift tax return memorializing the value of the gifted asset(s). If the Internal Revenue Services does not challenge the value of the asset(s) reported on the gift tax return within three (3) years, then the reported value becomes final.

One of the negative aspects of gifting is that the donee does not get the advantage of a stepped-up basis in the value of the asset(s) for income tax purposes. Although basis calculations can be complex, basis is generally equivalent to the amount the donor paid for the property and is a determining factor when calculating gain or loss on the sale of property. If a donee receives property by gift (during lifetime), then the donee takes the donor’s basis. Compare this with receiving the same property by way of inheritance. In the latter scenario, the beneficiary receives the property valued on a stepped-up basis - the fair market value of the property at the time of death of the decedent. Given the present state of the economy, many people think that receiving the donor’s basis (by way of lifetime gift) would be beneficial since the gifted property may have greatly depreciated and therefore its fair market value is lower than the

## To Gift Or Not To Gift? (continued)

donor's basis - meaning that the donee could realize a loss when the gifted property is subsequently sold. However, the Internal Revenue Service has considered this possibility and will generally use the sale value of the gifted property as its basis so that neither gain nor loss would be recognized.

Two (2) major questions for clients and estate planning professionals alike is what will be the effect of a reduced gift tax exemption in 2013 and beyond? What happens if the gift tax exemption is reduced to \$1,000,000 in 2013? To understand this concern you must first understand how estate tax is calculated. To determine how much estate tax is owed at death, you begin by adding up all taxable gifts made during lifetime (i.e., not those gifts that fall within the \$13,000 exemption or as paid to medical or educational facilities, as previously mentioned). You then subtract the amount of the estate tax exemption and calculate the tax on the remaining amount. Estate planners ponder what will happen in the case of amounts gifted in 2011 and 2012 that may exceed a later 2013 exemption reduction to \$1,000,000. The concern speculated upon throughout the legal and tax world is that such gifts could

be "clawed back" into the donor's taxable estate. The general consensus is that a claw back is unlikely.

In conclusion, even with the uncertainty of the estate and gift tax laws, gifting during 2012 will still be beneficial for those clients whose circumstances and goals are conducive to gifting. The major benefit of making gifts remains the same – excluding the value of the gift, and any future appreciation and income related to the gifted asset(s), from the donor's estate. As illustrated in this article, because gifts in excess of the annual exclusion amount are eventually added back into the estate of a later-deceased donor, for the majority of clients it is critical to utilize annual exclusion gifts intelligently during lifetime. Do not let fear or a lack of information thwart your gifting intentions as information and assistance is readily available. Conversely, do not make gifts without the benefit of professional advice (your estate planning lawyer or Certified Public Accountant) so that undesired consequences can be avoided. By following these guidelines, clients can experience the real benefit of gifting – the joy of gifting.

### Branding Statement:



As Elville and Associates expands, we have decided to rebrand to incorporate both our established core capabilities and our commitment to best practices and continuous improvement. Our clients know us as both credible and personal in our approach to law. They trust in our full range of services: **estate planning, elder law, special needs planning, fiduciary representation, asset protection, estate administration, trust administration, estate and trust litigation, tax controversy, guardianship, and social security issues**. Therefore, in re-branding, given the scope of our services and our remarkable team, we wanted our brand to show both our respect for our past and the energy and depth of our future. In selecting the knight's head as the primary element, we represent the strength and honor of the figure while retaining an element of our earlier brand. We use platinum to represent the highest standard as a valued and rare element; blue is used to represent energy, optimism, clarity, and strength of purpose; we use the forward slant as a crisp, deliberate rule leading to the future, while honoring the past. Our tagline, "**PLANNING FOR LIFE, PLANNING FOR LEGACIES**" has been our value statement since the firm began; it has served us well and functions equally well now as the clear and stable bridge for our clients and our firm, joining old and new.

# UPCOMING EVENTS AND SPEAKING ENGAGEMENTS

JUNE 2012						
SUN	MON	TUE	WED	THU	FRI	SAT
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JULY 2012						
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AUGUST 2012						
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SEPTEMBER 2012						
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June 27 ■ 6:30 p.m. - 8:30 p.m. MOLST Workshop - Sunrise Senior Living in Pikesville, Maryland

June 27 ■ 8:00 a.m. - 5:00 p.m. MACPA's 2012 Innovation Summit - Martin's West Baltimore

July 25 ■ 12:00 p.m. - 1:30 p.m. Advisor and CPA Workshop - Linden Hall, Columbia, Maryland

July 31 ■ 10:00 a.m. Presentation - Harmony Hall Retirement Community, Columbia, Maryland

August 22 ■ 12:00 p.m.- 1:30 p.m. Advisor and CPA Workshop at Linden Hall, Columbia, Maryland

August 27 ■ Gift Tax And Its Role In The Planning Process - National Business Institute, Baltimore, Maryland

August 29 ■ 10:00 a.m. - 2:00 p.m. Senior Housing and Resource Fair - Laurel-Beltsville Senior Activity Center

September 18 ■ 2:00 p.m. - 3:30 p.m. Correcting Common Trust Mistakes - National Business Institute - National Telecast

September 18 ■ 6:00 p.m. - 8:00 p.m. Client Appreciation Event - Linden Hall, Columbia, Maryland



Elville & Associates proudly supports the **Anne Arundel Medical Center Foundation** and its many initiatives through its Charitable Gift Planning Advisory Committee. If you are interested in making a charitable gift to Anne Arundel Medical Center, please contact Stephen R. Elville, Esq.

## OUR STAFF



### CATHY LONAS, RN, BSN, MSBA

Elville & Associates is proud to announce its professional association with Cathy Lonas, RN, BSN, MSBA, Geriatric Care Manager. Since Cathy's introduction to Mr. Elville, she has become an integral part of our Planning Team. Cathy brings a wide range of talents and abilities to our clients, along with an extraordinary passion and energy for helping others. This personal and professional skill set is now a powerful part of Elville & Associates' solution-oriented approach to elder and estate planning. We are proud of the elevated level of practice and client service we are able to attain by making Cathy's information and services known and available to our clients.

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### MARY GUAY KRAMER

Mrs. Kramer came to Elville & Associates in June 2011 and is the executive assistant to lead attorney, Stephen R. Elville. She also serves as Elville Associates' Funding Coordinator. Mary has an extensive background as an executive assistant and certified paralegal, having worked in large, private law firms and in the corporate world with The Travelers. As Funding Coordinator, Mary's mission is to ensure that every estate and elder law plan is fully funded. Mary's well-known talents for organization and efficiency make her uniquely situated to the funding process and the client follow-up that results in plans that ultimately work as intended. Whether you have a long-standing plan or have recently implemented the planning process, it is always a good idea to review your plan funding. Please call Mary any time a funding question arises, and always keep in mind that we are committed to making sure that your estate or elder law plan is properly funded.

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### ROSE ANN SCHULER

Mrs. Schuler came to Elville & Associates in February, 2011, after spending over 20 years in the background investigation industry. She currently works as a paralegal and also supports the firm administratively. Mrs. Schuler also assists Mrs. Elville in the daily management of the firm's main office in Columbia, Maryland.

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### DEBORAH ELVILLE

Mrs. Elville has been a part of Elville & Associates since its inception. She currently heads the firm's billing department and also works with Rose Ann Schuler in the daily management of the firm's main office in Columbia, Maryland.

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### PATRICIA TAIT

Ms. Tait recently joined us at Elville & Associates as our Media and Public Relations Director. She has almost 20 years of experience in Marketing, Advertising and Public Relations working with Fortune 500 companies as well as many small and medium-sized businesses. Patti started her career at the public relations firm, Porter Novelli in Washington, D.C., then went on to start her own Marketing and Design company.



## OUR ATTORNEYS



### STEPHEN R. ELVILLE, J.D., LL.M.

**Practice Areas:** Estate Planning, Elder Law, Special Needs Planning, Asset Protection, Estate Administration, Taxation

**Practice Focus:** Mr. Elville works with individuals and families to provide a unique attorney-client experience and peace of mind solutions to the challenges they face with estate, asset protection, and tax planning issues, and with disability and long-term care planning issues. Mr. Elville has extensive experience in working with clients involved in crisis situations. He also brings a unique and personalized approach to pre-crisis planning. Mr. Elville routinely handles client issues in the following areas: wills, trusts, estate tax planning, powers of attorney, living wills/advance medical directives, Medicaid asset protection trusts, Medicaid planning and qualification, estate administration, fiduciary representation, nursing home selection, guardianships, special needs planning for children and adults, Social Security Disability Income (SSDI), Supplemental Security, Income (SSI), and IRS tax controversy.

**Education:** LL.M., University of Baltimore, cum laude; J.D., University of Baltimore School of Law, cum laude; B.A., University of Baltimore, summa cum laude

**Professional Activities and Achievements:** Mr. Elville is a member of the National Association of Elder Law Attorneys (NAELA), Elder Counsel, Wealth Counsel, the Advisor's Forum, and the National Network of Estate Planning Attorneys. He is the past Chair of the Howard County Bar Association Estates & Trusts and Elder Law Sections and is the past President of the Coalition of Geriatric Services (COGS). Mr. Elville currently serves as a member of the Maryland State Bar Association Elder Law Section Council and the Charitable Gift Planning Advisory Committee for Anne Arundel Medical Center (CGPAC). Mr. Elville is a frequent guest lecturer for the National Business Institute and has formerly advised the Genworth Network. He has lectured at Villa Julie College. His articles have appeared in *The Business Monthly*.

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### HELEN M. WHELAN, J.D., LL.M.

**Practice Areas:** Estate Planning, Estate and Trust Administration, Elder Law, Taxation, Asset Protection

**Practice Areas:** Ms. Whelan advises families and individuals about appropriate planning for their futures. Her goal is to educate clients so that they understand their estate planning, and how that plan will be implemented, both during their lifetime and after death. Ms. Whelan is experienced in handling clients' needs during a crisis. She counsels clients about elder law issues, including Medicaid qualification and asset protection, as well as tax planning and business succession planning, and she assists clients in the administration of estates and trusts. Ms. Whelan's practice includes the preparation of Wills, Trusts, Advance Medical Directives, and Powers of Attorney.

**Education:** LL.M. in Taxation and Estate Planning Certificate, Georgetown University Law Center; J.D., Catholic University of America, Columbus School of Law, B.S., University of Maryland University College; Certified Public Accountant, DC (Inactive)

**Professional Activities and Achievements:** Ms. Whelan recently co-authored an article entitled "Planning Ideas and Considerations for Unmarried Couples", which was published in the December 2011 edition of the *Journal of Financial Planning's Between the Issues*. Ms. Whelan is in her second term as a Commissioner appointed to the Montgomery County Commission of Common Ownership Communities (CCOC) and is chair of its Legislation Committee.

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### BARRETT R. KING, J.D.

**Practice Areas:** Estate Planning, Elder Law, Estate/Trust Administration, Fiduciary (Estate/Trust) Litigation, Business Law, Tax Litigation

**Practice Focus:** Mr. King regularly assists clients in preparing wills, trusts, powers of attorney, living wills/advance directives, business planning, estate administration, fiduciary representation, and a host of other areas. He also represents clients in the Orphans' Court and the District and Circuit Courts of Maryland in will contests, business disputes, guardianships, and estate and trust litigation. Mr. King also defends clients in tax controversies involving Maryland and federal tax authorities.

**Education:** J.D., University of Baltimore School of Law, cum laude; B.A., Salisbury University, Dean's List, Alumni Hall of Fame

**Professional Activities and Achievements:** Admitted to the United States Supreme Court Bar. Mr. King was recently appointed to the Board of Directors of The Women's Law Center of Maryland, Inc., the first male ever appointed to that Board.

## CLIENT ADVISORY COMMITTEE

Elville & Associates is forming a Client Advisory Committee. This Committee will be comprised of a small group of clients who will be asked to consider and advise the firm concerning various client relations and client service issues, including the Client Continuing Education and Update Program, the firm's annual education event, the firm's succession plan, and more. If you would like to be involved in the work of Client Advisory Committee, please call Mary Guay Kramer at 443-393-7696.



## NEW TELEPHONE NUMBERS

As part of our constant effort to improve our systems and processes, we have installed a new state of the art communications system. Please note that, Elville & Associates now has a new series of telephone numbers.



THE NEW TELEPHONE NUMBERS FOR ELVILLE & ASSOCIATES ARE AS FOLLOWS:

- (443) 393-7696 (Main Number)
- (443) 393-7697 (Facsimile)
- (443) 741-3446 (Baltimore calling area)
- (301) 272-8874 (Montgomery Co./DC/Northern Va. Calling area)
- (410) 246-0715 (Downtown Baltimore calling area)

THANK YOU IN ADVANCE FOR NOTIFYING US OF ANY CHANGE(S) IN YOUR CONTACT INFORMATION.

## NEXT EDITION

- In the next edition of the "Benefactor", Mr. Elville will discuss protecting retirement plan assets, and why the retirement plan portion of estate plans should not be "ignored".

## ON THE RADIO

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# Ten Things To Look For In An Estate Planning Attorney

by Stephen R. Elville, J.D., LL.M.

1. Provides warm, friendly approach and caring environment.
2. Attorney is a counselor and not just a technician.
3. Clients are provided with a unique estate planning experience and not just a transaction.
4. Provides an interactive estate planning process in partnership with the client and with emphasis on client goals (not a paternalistic approach).
5. Ensures financial advisor/C.P.A. friendly approach with goal of inclusive total team effort; works in good faith with Financial Advisor and/or C.P.A. to implement all appropriate solutions in best interests of the client.
6. Timely and structured process - encourages clients to complete the estate planning process and discourages procrastination.
7. Trust funding - estate planning attorney and firm's funding coordinator oversee and ensure proper funding of all estate and elder law plans (client not abandoned with unfunded plan).
8. Client education and understanding - to the extent possible, attorney ensures that client understands their estate planning documents and choices.
9. Follow-up - maintains on-going contact with clients via annual continuing education and maintenance programs to encourage clients to meet with attorney at least once every other year and facilitates client-attorney contact throughout the year, via quarterly newsletter and other notifications.
10. Value-added services - provides client access to latest in on-line document storage, CD document storage, and all available long-term care product recommendations for "complete" estate planning.

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## ELVILLE & ASSOCIATES' VISION & MISSION STATEMENTS

### VISION STATEMENT

To become the leading estate planning and administration, elder law, and fiduciary representation firm in Maryland through the relentless pursuit of and adherence to the fundamental firm values of educating and counseling clients and constant recognition that the firm exists to exceed our clients' expectations; in an environment that encourages and facilitates constant learning, improvement, and professional advancement for all employees, and where all members of the firm are respected and encouraged to utilize and develop their own unique talents and abilities.

### MISSION STATEMENT

To provide practical solutions to our clients' problems through counseling, education, and superior legal technical knowledge.

# SERVICES OFFERED BY ELVILLE & ASSOCIATES

## ESTATE PLANNING AND TAXATION

- Wills
- Trusts
- Powers of Attorney
- Advance Medical Directives
- Estate Administration (Probate)
- Trust Administration
- Fiduciary Representation
- Estate Tax Planning
- Asset Protection
- IRS Tax Controversy
- State of Maryland Tax Controversy

## ELDER LAW

- Medical Assistance
- Medicaid Asset Protection
- Long Term Care Planning
- Nursing Home Selection
- Assisted Living Issues
- Guardianship
- Veterans Benefits
- Social Security
- Senior Housing

## SPECIAL NEEDS PLANNING

- Special Needs Trusts
- Pooled Trusts
- Public Benefit Preservation
- Supplemental Security Income (SSI)
- Social Security Disability (SSDI)
- Funding of Tort Recoveries
- Financial and other Planning for Special Needs Children and Adults
- Health Care Decision Making



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