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# LEGALLY SPEAKING

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Volume 1, Issue 1

May 2009

## **“Legal-ese Speaking”**

**Escheat** (pronounced, *es-cheet*): Reversion of property to the state when someone dies without a will or heirs.

**Intestate** (pronounced, *in-test'-ate*): The state of dying without a will.

**THE INFORMATION YOU OBTAIN IN THIS NEWSLETTER IS NOT, NOR IS IT INTENDED TO BE, LEGAL ADVICE. YOU SHOULD CONSULT AN ATTORNEY FOR INDIVIDUAL ADVICE REGARDING YOUR OWN SITUATION.**

## **Where There's A Will . . . .**

**Barbara Ann Mohajery, Esquire**

*Mohajery & Associates, PC*

Spring is a time of renewal, a time to “spring clean” and a time to organize and re-organize. As part of this process, it is also a good time to review your essential estate planning documents or, if you do not have any, a

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## **Where In the World . . . .**

**Barbara Ann Mohajery, Esquire**

*Mohajery & Associates, PC*

As many of you know, my husband, Mike, and I travelled around the world this past year, and I thought it might be fun to share with you in each newsletter some of the wonderful places we were fortunate enough to visit.

Our first destination was the Land Down Under, Australia. Our goal was to drive from Sydney to Cairns, taking time to stop at several places along the way.

This lovely view is from the lighthouse at Byron Bay. I can only imagine what a thrill it was for this sail glider to be coasting at such an altitude above the shoreline!



The walk to the Byron Bay Lighthouse was spectacular, and the lighthouse, itself, is perfectly beautiful.

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time to *do* your estate planning documents. Basic estate planning documents generally include a will, a power of attorney and a living will but may also include, for example, a power of attorney devoted specifically to healthcare or operation of a business.

### What Is My “Estate”?

Without, perhaps, even realizing it, you make provision during your lifetime for distribution of your estate after your death; e.g., you name a beneficiary of an IRA or a retirement benefit; you own real estate or a bank account with another person; or you own a CD ‘in trust for’ someone else. In the event of your death, these assets are distributed directly to the beneficiary or joint owner. The only assets that become part of your estate are those that are owned solely in your name at the date of your death. Commonly, this can be an automobile, a bank account or real estate.

***“The only assets that become part of your estate are those that are owned solely in your name at the date of your death.”***

### What Happens If I Die Without A Will?

**Myth:** If one dies *intestate* all of the property and belongings of that person *escheat* to the Commonwealth of Pennsylvania.

**Fact:** Nothing could be further from the truth. If you die without a Will, Pennsylvania, in effect, makes a Will for you by way of its *intestacy* statute; and, the manner in which Pennsylvania distributes your estate may differ from that which you would do by way of your *own* Will. As with other matters, it is almost always better to make your own decisions rather than to leave those decisions to a third party, in this case, the Commonwealth of Pennsylvania,

Please call for an appointment if you do not now have a Will and wish to discuss the effect of the *intestacy* statute in your particular case.

***“ . . . . it is almost always better to make your own decisions rather than to leave those decisions to a third party . . . . ”***

### Did You Know . . . . ?

**Barbara Ann Mohajery, Esquire**  
Mohajery & Associates, PC

The Allegheny County District Attorney’s Office has developed a program to educate senior citizens about the abuses that are often visited upon the elderly. During 2008, **Michael Feeney, Elder Abuse Activist** for the District Attorney’s Office, visited a total of 127 senior citizen independent living facilities in Allegheny County where he spoke to senior citizens and staff about the abuse issues often faced by our senior citizens – for example, physical abuse, illegal scams, substandard living quarters and substandard care. Mr. Feeney, on behalf of the District Attorney’s Office, was also able to provide direct assistance to senior citizens who were having problems dealing with banks, foreclosures and elder abuse.

Mr. Feeney regularly pays visits to: (a) nursing homes to introduce himself to staff and to check on safety, cleanliness and patient care; (b) banks to provide educational information about the detrimental effects of illegal scams upon senior citizens; and (c) local police departments to raise awareness regarding the types of criminal activities that regularly affect our senior citizens (e.g., illegal scams, elderly abuse and identity theft). Mr. Feeney also checks regularly upon senior citizens living in various neighborhoods.

If you suspect elder abuse or would like Mr. Feeney to address a group, you are encouraged to call him at (724) 351-8330.

Contact information for Mr. Feeney:

**Michael Feeney**  
**Elder Abuse Activist**  
**Allegheny County District Attorney’s Office**  
**(724) 351-8330**

## CALENDAR OF EVENTS- APRIL

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### APRIL 6, 2009

CCAC NORTH CAMPUS (ROUTE 19)

6:30 P.M. – 9:00 P.M. / (412) 366-7000 TO REGISTER

Basic Estate Planning – a look at the purpose and function of Wills, Powers of Attorney, Living Wills, Mental Healthcare Directives and Living Trusts

### APRIL 13, 2009

CCAC NORTH CAMPUS (ROUTE 19)

6:30 P.M. – 9:00 P.M. / (412) 366-7000 TO REGISTER

Estate Probate – an in-depth review of the probate process, including what constitutes the ‘probate estate,’ the duties of an executor, Pennsylvania inheritance tax, federal/state estate tax, and the function of inter-vivos trusts.

### APRIL 18, 2009

THIRD SATURDAY SERIES

UPMC LIGHTHOUSE POINTE, FOX CHAPEL, PA

8:30 A.M. – 12:00 P.M. / (412) 731-4652 FOR RESERVATIONS

What women need to know about divorce and issues related to break-up of the family unit

### APRIL 18, 2009

SMALL BUSINESS BASICS WORKSHOP

TOPIC: **LEGAL ISSUES IN STARTING A BUSINESS**

DEVRY UNIVERSITY, 210 SIXTH AVE., STE. 200

PITTSBURGH, PA 15222

PRESENTED BY: SCORE PITTSBURGH

COST: \$45 PER PERSON – Reservations Required

Register Online at [www.scorepittsburgh.org](http://www.scorepittsburgh.org)

### APRIL 20, 2009

GATEWAY HOSPICE PROGRAM

LAURI ANN WEST LIBRARY, POWERS RUN RD., FOX CHAPEL, PA

10:30 A.M. – 11:30 A.M. / (412) 979-1606 FOR RESERVATIONS

Basic Estate Planning – a look at the purpose and function of Wills, Powers of Attorney, Living Wills, Mental Healthcare Directives and Living Trusts

### APRIL 27, 2009

FAMILY LAW

LAURI ANN WEST LIBRARY, POWERS RUN RD., FOX CHAPEL, PA

7:00 P.M. – 8:30 P.M.

Call (412) 828-9520 ext. 15 for reservations – free to the public

Issues involved in break-up of the family unit – spousal and child support, custody, divorce, equitable division of the marital estate

If you look closely at the picture on this page, you may be able to see the man painting the lighthouse (upper right, just below the beacon). This did *not* look like as much fun as the sail gliding!!!



## QUESTIONS AND ANSWERS

Q: I have been estranged from my daughter for several years. Must I include her in my Will?

A: No. The only person who has a right to claim part of your estate if you leave him/her out of your Will is your spouse, who has a statutory right to claim an elective share (1/3) of your estate. You cannot, of course, prevent your daughter from *contesting* a Will that omits her; but, unless she can prove that you *never* would have left her out unless you were not in your right mind or someone exercised undue influence over you (*i.e., made you leave her out*), it would be an uphill battle for her. The safest way to head off such a challenge is to actually state in your Will that you recognize that you have a daughter named “\_\_\_” and that you have intentionally omitted her from your Will because you and she are estranged. This way, your intent has been made clear.