

VOLUME 5 ISSUE 6

# ESTATE PLANNING & ASSET PROTECTION



JUNE 2014 DIGITAL ASSET PLANNING EDITION

## THE BENEFITS OF PRESERVING YOUR DIGITAL LEGACY

Failure to properly incorporate your digital universe into your estate plan can lead to a loss in your estate, exposure of private material, and much more.

## THE SOCIAL NETWORKER'S ASSET PROTECTION GUIDE

Don't leave the fate of your social networking sites to chance. Read about the important considerations when destroying or preserving your digital presence.

## THE DIGITAL ASSETS TO INCLUDE IN YOUR ESTATE PLAN

Start your digital asset inventory with these helpful prompts, and identify what digital assets you will want to include in your estate plan.



# WFP

WEALTH FAMILY PROTECTION  
*Attorneys at Law*

## WHEN LEGACY MATTERS

At Wild Felice & Partners, we implement estate planning and wealth transfer techniques such as the use of Florida Revocable Trusts and Irrevocable Trusts, Family Limited Partnerships, Limited Liability Companies and other advanced estate planning tools to help our clients avoid probate and limit or eliminate estate tax burdens on family members. We realize that each client is unique and every plan is tailored accordingly to every individual need. Our firm aims to shed the tax attorney paradigm and focus instead on the dynamic relationships between our clients and their loved ones. WFP Law realizes that estate planning is truly for the loved ones that we leave behind.

**It's a Wild world. Are you protected?**



*Protecting What You Value Most Through  
Estate Planning and Asset Protection*

## PROVIDING SOLUTIONS THAT SECURE AND ENHANCE YOUR WEALTH AND YOUR LEGACY

Everyone understands the benefits of having insurance to protect your assets from unanticipated events. Hazard and casualty insurance is necessary to provide protection from the risks of fire, floods, and wind damage. Liability insurance is necessary to provide protection from the risks of auto accidents and personal injury. But what can you do to protect your assets from claims in excess of your insurance or from risks of lawsuits or from unexpected business liabilities or from an overabundance of tax consequences? Fortunately having an asset protection plan in place can help insulate you from these potentially significant risks.

We believe in providing you with effective solutions so that you can have confidence that your assets and your legacy are protected. An effective asset protection plan needs to be in place before a lawsuit or claim is made against you, and well in advance of your retirement or death, so it is important to take the step toward greater protection today.

WFP Law is a full-service, Fort Lauderdale, Florida based law firm with a specialty in asset protection. We utilize a combination of estate planning, real estate law, corporate formation, family law, and asset structuring to assure that our clients are protected from potential litigation, creditors, and any other threats that may be looming. A properly designed asset protection plan can accomplish many of your most important objectives:

- Protection of family savings and investments from lawsuits and claims.
- Protection against inadequate or unavailable insurance coverage.
- Insulation of rental properties reducing your exposure to potential lawsuits.
- Protection of business assets and accounts receivable from potential claims.
- Elimination of probate.
- Reduction of estate taxes.

### **It's a Wild world. Are you protected?**



## The Benefits of Preserving Your Digital Legacy

Take a moment to consider the wide array of online profiles and accounts that are floating around cyber space; bearing your name, personal information, communications, blogs, stored files, and so on. What happens to our online identities when we are gone? Who will receive access to your email, blog, and social media accounts?

In South Florida, social media & digital assets are all encompassing in our daily lives. Whether it is for work, school, home, or purely social purposes, our digital assets are incredibly valuable, & should be considered with the rest of our assets when planning our estates.

**By incorporating your digital assets into your estate plan; you can achieve the following benefits:**

- Control over how your accounts are closed & preserved.
- Control over choosing someone you trust to be an online executor, & follow your wishes regarding the disposal or care of your digital assets.
- Privacy - preventing the wrong person from accessing your private information.
- Ensuring that your fiduciaries discover all the vital account information when the need arises

*Every American should have an estate plan in place but the need for comprehensive estate planning is even greater when you have children.*

- Prevention of identity theft - if no one has knowledge or access to your accounts, there is a higher probability that identity theft will go unnoticed.
- Easy discovery of electronic bills and similar accounts, to avoid late fees & cancellations that will create losses for the estate.
- Preserving your story - allowing family members to access your blog, photos, and other digital assets that keep your memory and story alive.

While many may advise you to simply incorporate your digital asset wishes into your will, doing so can be problematic when it comes to privacy. When a will is admitted to probate, its contents become public record. Thus, any private digital asset information you place in your will, such as usernames and passwords, are exposed to the public. As an alternative, said information can be placed in a separate document that is referenced in the will; or better yet, placed into a trust. This way, your social media identity remains private, and you can receive all of the same benefits mentioned above.

# The Social Networker's Asset Protection Guide

## What you need to know about "deceased-user policies"

Social networking is its own category of digital assets, as these accounts are more personal to the owner, and often leave behind a surviving legacy. Their value is rarely monetary, but rather sentimental to those the Networker has left behind. When planning ahead, the most important consideration for the Social Networker is the "deceased-user policies" that are agreed to upon creation of the account.

For example, Facebook allows a family member to "memorialize" the account, so that friends can continue to interact with the Facebook wall, in memory of the deceased. Certain access and features are limited to protect the account holder, and the account can be closed upon a formal request that meets certain criteria. Therefore, in your will, you can merely direct your personal representative to close or memorialize the account. This same memorialization can be made for LinkedIn accounts as well. For Twitter, however, a family member can deactivate the account and receive an archive of the tweets by merely submitting basic information to twitter in a formal request. Therefore, the account holder may not be concerned with leaving provisions for such accounts, beyond an instruction that they merely be closed (or left open). There are some accounts, on the other hand, that will give family member's access upon a court order. Keep this in mind for accounts that you specifically do or do not want others to have access to. If you do, then provide the username and password. Otherwise, you may want to include express language that prohibits access to these accounts. This will likely prevent a judge from ordering that your account be accessible to family members.

**The Social Networker can start planning ahead today with the following steps:** (1) make a list of your social networking accounts; (2) designate the accounts you want private verses those you would like passed on to loved ones; (3) read the user agreements for each account, or have an attorney do it for you (as these policies are often buried in legal language); (4) consult your estate planning attorney with your digital asset wishes, and incorporate them into your will &/or trust; (5) *rest easy, your digital legacy is now protected!*



## The Digital Assets to Include in Your Estate Plan

The "digital asset" is a fairly new concept that has not been incorporated into estate planning until recent years; therefore, many have failed to even take their digital presence into consideration when planning their estates. As seen above ("*The Benefits of Preserving Your Digital Legacy*"), if you have a digital existence, it is in your best interest to incorporate such disposition with the rest of your assets.

In determining what digital assets you should include in your estate plan, it is first important to understand exactly what assets we are referring to. Digital assets include all online accounts (profiles) and digital files that you own (see "*Digital Asset Inventory*," to the right). As a starting point, it may be helpful to determine and separate accounts in terms of their monetary and sentimental values, as you will likely want to plan for the disposition of both types.

**Monetary Digital Assets:** You may want to leave specific instructions for the monetary accounts, including the account information, and how you want the account to be closed or maintained. Because of the safety concerns associated with such accounts, you should be cautious with how you record the information. For example, you may not want to include all of the usernames and passwords onto one document, as it could be detrimental if it falls into the wrong hands. Therefore, you may want to consider putting usernames on a separate document than passwords, and can be stored at different locations or with different family members. On that same note, there are many afterlife management companies that store all of this information for you. This presents the same concern that all of the information could be exposed, in the event that the security system is breached.

**Sentimental Digital Assets:** With sentimental accounts, your main concern will be minimizing the hassle associated with loved one's accessing your accounts. As explained in "*The Social Networker's Asset Protection Guide*" (above), each account has different user agreements, which will effect how you instruct their disposition. Therefore, it is important to read the user agreements for each account, to ensure that your instructional provisions are consistent with what you have legally agreed to. Also, don't forget to include those files that you have on your computer, phone, a zip drive, or on a "cloud." Be certain to include these digital assets in your estate plan, as failure to do so can lead to problems arising from terms of service agreements, privacy, and rights of beneficiaries.

Now that you have determined your digital assets, it is all about **legacy, privacy, & security planning**. Go through each item on your list, and decide which type of planning it falls under. Additionally, consider who you would want to appoint to take care of the management and distribution of your digital assets. This will help your attorney draft the appropriate provisions that will preserve and protect your digital afterlife.

*It's a Wild world. Are you protected?*

## Digital Asset Inventory

### Q: What Digital Assets Do You Own?

Consider the following digital assets as a prompt in creating your own digital inventory:

- **Email accounts**
- **Social networking accounts**
  - Facebook
  - Instagram
  - Twitter
  - LinkedIn
- **Blogs**
  - WordPress
  - Blogger
- **Domain names**
  - GoDaddy
- **Online subscriptions**
- **Pictures and Videos**
  - Flickr
  - Kodak Easyshare
  - YouTube
- **Virtual Businesses**
  - Ebay businesses/seller accounts
- **Online payment accounts**
  - Bank Accounts
  - Shopping accounts
    - Amazon
    - Ebay
    - Paypal
  - Bill accounts
- **Computer Games - Avatars**
  - World of Warcraft
  - Second Life
- **Any personal files on a:**
  - Computer
  - "Cloud" (online hard-drive)
  - Zip drive
  - Phone





## A LITTLE FABLE AT THE COUNCIL TABLE



### IN THE NEXT ISSUE:

#### AMERICAN INDEPENDENCE EDITION

#### THE ESTATE PLANNING DOCUMENTS YOU NEED TO PROTECT YOUR FAMILY

Protect the future of America by protecting your family first. Learn about Living Trusts, Assignments of Property into Trust, Pour-Over Wills and more.

#### THE PROFESSIONAL'S ASSET PROTECTION GUIDE

Don't become part of the 50 million lawsuits filed each year. Read about how an LLC and LLP can be your ultimate armor.

#### CONSIDERING THE NEGATIVE EFFECTS OF PROBATE

Without a proper estate plan in place, you may end up costing your family thousands of dollars after you die.

### HERCULES & THE WAGGONER

A Waggoner was once driving a heavy load along a very muddy way. At last he came to a part of the road where the wheels sank half-way into the mire, and the more the horses pulled, the deeper sank the wheels. So the Waggoner threw down his whip, and knelt down and prayed to Hercules the Strong.

"O Hercules, help me in this my hour of distress," quoth he.

But Hercules appeared to him, and said: "Tut, man, don't sprawl there. Get up and put your shoulder to the wheel."

*The gods help them that help themselves. Help yourself (but don't draft it yourself) & plan ahead by making an appointment with your estate planning attorney today!*

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Michael D. Wild is a Florida attorney specializing in the areas of estate planning and asset protection. For more information on successful Florida estate planning and asset protection techniques, please contact the South Florida law firm of WFP Law at 954-944-2855 or via email at [info@wfplaw.com](mailto:info@wfplaw.com) to schedule your free consultation.

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