

Digital Assets and Your Estate Plan

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This Weekly Newsletter
is brought to you by

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According to a 2013 survey conducted as a part of the Pew Research Center's Internet Project, approximately 85% of Americans use the Internet. Out of those users, several have e-mail and social media accounts, blogs, frequent flyer miles and other rewards accounts, and digital photos ("digital assets"). We have become reliant on this technology to connect us to others, share photos and music, stay informed, and generate new content. We e-mail, post, publish, and maintain our virtual identities without giving much consideration to what would happen to our accounts and web pages should we become incapacitated or pass away.

As Facebook ages, for example, more and more users pass away. These deceased users' profiles are often frozen in time, their last musings and photos, sometimes unflattering, left in place and their virtual walls transformed into a memorial by their loved ones. If the deceased user did not leave behind a password, or if he or she did not live in a state with laws specifically addressing this issue, it could be difficult for his or her loved ones to gain control of and edit the content on these pages.

There is currently no federal legislation regarding digital property; however, a handful of states have passed laws designed to protect individuals' digital assets and give their families the right to access and manage those accounts. Individuals in states without this legislation are limited by the terms of service or privacy policy of each service that manages the digital assets (e.g., Gmail, Twitter, Facebook, or Tumblr).

In 2013, Virginia passed a very limited piece of legislation permitting the personal representative of a deceased *minor* to gain access to the minor's digital accounts and assets upon making a written request to the custodian of the accounts and assets and providing documentation indicating the fiduciary relationship (Virginia Code § 64.2-110). This is a step in the right direction, but it does not apply to deceased adults. Several states have passed laws pertaining to adults; ideally, Virginia would expand its law to include adults, as well. In the meantime, Hook Law Center has begun adding provisions to each Will we prepare, specifically granting the executor permission to manage the decedent's digital assets. We have also added to our clients' Powers of Attorney a paragraph permitting the individual's agent to manage and modify his or her digital assets.

Digital Assets and Your Estate Plan – Cont'd

In addition to utilizing your Will and Power of Attorney to permit others to manage your digital assets, we strongly recommend that you create a master list of your accounts, log-in information and passwords, to make it easier for the people you have named to take control of those assets. If you ask us to prepare a full set of estate planning documents for you, we will give you a form you may use to list this information. Be sure to keep this information in a safe, secure location to prevent it from falling into the wrong hands.

If you have significant digital assets, no Will or Power of Attorney, or outdated estate planning documents, give Hook Law Center a call. We would be happy to assist you in ensuring individuals are properly named to help manage these accounts in the event you are unable to do so yourself.



Good News for Farm Animals!

Hook Law Center: Kit Kat, what is the latest about protecting farm animals from abuse?

Kit Kat: There is some really terrific news about farm animals and laws protecting them. In the past, they have been some of the least protected animals, and that is really a shame. Even though many are raised for food, they are entitled to basic, decent care. The ASPCA was recently responsible for helping defeat the King Amendment in the US House's version of the 2014 Farm Bill. The King Amendment would have removed many state anti-cruelty laws. The King Amendment, thankfully, was not included in the final law, which was signed by the President in February 2014. We can be grateful there are organizations like the ASPCA that watchfully protect helpless animals from commercial interests, which are at times very selfish.

The ASPCA was also active in defeating "ag-gag" legislation in 11 states. None were enacted. "Ag-gag" laws refer to legislation aimed at suppressing investigations about animal cruelty on large, factory-like farms. Pigs are particularly vulnerable to this type of maltreatment. Once again, it's amazing that things like this even become an issue. But the ever-vigilant ASPCA caught the proposed legislation in the nick of time to prevent them from being enacted. ([ASPCA in Action](#), Winter 2014, p. 10.)

Upcoming Events

- Shannon Laymon-Pecoraro will be attending the National Association for Medicare Set Aside (NAMSAP) Conference in Las Vegas, NV on **May 8-9, 2014**.

- Andrew Hook will be speaking at the Virginia Benefits Program Organization (BPRO) Spring Conference on **May 8, 2014** in Williamsburg, VA. Mr. Hook, Natalie Hale, CECC and Jennifer Woods-Pagano, CECC will be attending the three-day conference.
- Andrew Hook will be speaking on Financial Services Long-Term Care Insurance at the National Academy of Elder Law Attorneys (NAELA) Conference on **May 16, 2014** in Scottsdale, AZ. Mr. Hook will be attending the two-day conference.

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