

What Happens to Our Facebook Accounts When We Die?: Probate Versus Policy and the Fate of Social-Media Assets Postmortem

Abstract from the [article](#):

More than 580,000 Facebook users in the U.S. will die this year, raising numerous legal questions as to the disposition of their Facebook pages and similar “digital assets” left in a state of legal limbo. While access to and ownership of decedents’ email accounts has been philosophized for nearly a decade, this comment focuses on the additional legal uncertainties posed by “digital death” in the more amorphous realm of “social media.” Part II explores the implications of digital death by conceptualizing digital assets and surveying the underlying legal principles of contractual policies, probate, property, and privacy concerns. Part III surveys current law surrounding digital death, emphasizing a 2010 Oklahoma statute granting executors and administrators power over decedents’ “social networking” accounts. Parts III and IV consider what the current state of the law means for individuals facing death (i.e. everyone) as social media interacts with both (1) probate law and (2) social-media services’ policies as reflected in their terms of service. Part V explores how the law and proposed solutions may address the salient policy goals of honoring decedents’ postmortem wishes while meanwhile respecting privacy; preserving digital assets; and minimizing probate, litigation and other paperwork-type hassles. Ultimately this comment suggests while state or even federal legislation may call attention to the importance of digital estate planning, a better solution likely lies between the two extremes of the probate-versus-policy power struggle, and that social-media services themselves may be in the better position to quell the perfect storm of legal uncertainty that looms.