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## **ESTATE PLANNING IN A DIGITAL AGE**

Many of us have some sort of online presence, whether that be something as simple as an e-mail account or multiple social media profiles or accounts on sites such as Facebook, LinkedIn, Instagram, or Snapchat. Regardless of the extent of your online presence, the existence of any of these accounts could prove to be problematic after you've died.



Minnesota recently adopted a new law that creates a clear procedure to enable access to or disclosure of online accounts and digital assets to a person's fiduciaries. These fiduciaries may include an agent under a power of attorney, a court-appointed conservator of a living person, a trustee of a trust, or a court-appointed personal representative of a deceased person's estate. These procedures are necessary as federal law, on the other hand, creates privacy rights to protect the contents of certain electronic communications and files from disclosure by certain online account service providers.

One of the more common scenarios in which access to online accounts becomes an issue is after someone has died. Under the Minnesota law, a personal representative's traditional power to manage tangible property is extended to include management of a person's digital assets. By providing lawful consent in an estate plan, you can be sure that your loved ones will have access to your online information. There are a few ways a person can provide lawful consent in their estate plan:

1. Utilize online tools through service providers, which allows users to determine the extent to which their digital assets may be revealed to third parties and fiduciaries (e.g. Facebook's Legacy Contact tool);
2. Include authority in a financial power of attorney for use while the person is living;
3. Incorporate provisions in the person's last will and testament or revocable trust for use after the person is deceased; or
4. Create a separate stand-alone document to allow or prohibit disclosure to a fiduciary of some or all of an individual's digital assets, including the content of electronic communications sent or received by an individual.

In conjunction with one or more of these options, it's a good idea to maintain an updated inventory of your digital assets, including accounts, usernames, and passwords. Keep the inventory in a safe location with your other estate planning documents so that it is available if it becomes necessary to access your accounts.

Another point of consideration is how you want your digital assets to be distributed after your death. For example, should your family photos and videos be copied and available to all of your children? Do you want to exclude certain beneficiaries from receiving some or all of your digital assets? Should certain accounts be deleted upon your death, or do you want your Facebook account memorialized?

We're all connected in some way or another. Planning for the disposition of your digital assets is just another important component of a well-rounded estate plan.

# **Attorney Oehler Isn't that Old**

**By Lucy (Oehler) Swanson**

**I am writing with a public service announcement, and I am not sure if it should go in the personal testimony column or opinion column. Fact or not, this is about to get real.**

**I am writing to share that I am personally responsible for the whitening of Attorney Oehler's hair. Shortly following my birth in 1989, Attorney Oehler (who will now be referred to as AOITO, short for Attorney Oehler Isn't That Old) transformed from a super cool dude into a pretty cool old guy. Throughout my childhood, AOITO spent time finding himself and experiencing quarter-, third-, two-fifths, and mid-life crises. Through this time, AOITO experimented with the appearance of his head region, including mustaches, beards, shiny bald spots, a variety of grey-scale hair colors, and skull caps. To his dismay, several of these features stuck. As a result, Attorney Oehler isn't that old, but has been stuck looking old for years.**

**I take responsibility for the initial plight of AOITO's hair color. I take no responsibility for his other experimentation in the 90s.**

**For any other questions, please contact AOITO directly at his AOL email address. He will view the email on his Sprint phone. If you don't know what AOL and Sprint are, ask Siri.**

**He isn't that old.**

*Lucy Swanson is a music teacher and middle school choir director in northern Minnesota. The views expressed are those of Mrs. Swanson alone and do not necessarily reflect the views of the law firm or any of its employees or proprietors.*



Bill is an avid biker and often bikes to work.



Bill attended his 40<sup>th</sup> Law School Reunion this year. Here he is his graduation from Cornell Law School in 1978.

## Memorial Day Tradition is about Remembrance, Heritage

### *A Reflection by Jason Wagner*

For many, Memorial Day marks the beginning of summer and all it has to offer. Summer is a very special time of year for Minnesotans. It is a time when many of us take advantage of the outdoors, occasionally shorter work days, and family gatherings. Although this summer has had some blisteringly hot days already, it is a brief reprieve from the winters that harden us into industrious and productive citizens in this part of the world. For me, summer is also about tradition.

Every year there are summer activities and community events that we participate in as a family. For instance, we never miss the parade in Elgin (the candy was melting in the street this year!) or the corn on the cob feed in Plainview. I'm sure we'll visit the Olmsted County Fair again this year so my kids can get a chance to visit the Miracle of Birth Center and witness from a safe distance what I experienced in a much more tactile way growing up on the farm. But the summer tradition that I appreciate the most is the Memorial Day Observance ceremony.

We always attend the Memorial Day Observance ceremony held in Hammond at St. Clement Cemetery. Every year, locals and relatives from farther away gather in this small village in the Zumbro River valley quietly making small talk as we wait for the veterans from the Zumbro Falls VFW to begin the ceremony. When they arrive, everyone stands facing the flag as the servicemembers in uniform march toward one of the gravesites of a fallen service member with the ladies of the VFW Auxillary following behind with their straw hats and handheld flags. In this quiet river valley, we are all suspended together in a moment of silence, surrounded by the newly-lush green trees and water flowing below as we say a prayer and remember those that gave the ultimate sacrifice for our freedoms. There are no political divisions or blustery outrages – only reverence for the lives lost and gratitude for those that serve and have served.

The honor guard fires the volleys and *Taps* rises in the air as the short ceremony comes to its conclusion. All the children present quickly rush to collect a spent shell, and I encourage my three-year-old daughter, June, to find one. Though she has no such luck, a nice young boy gives her one of his extras. They don't know it, but his great grandparents are also June's great-great grandparents. This is what makes this Memorial Day Observance such a meaningful tradition for me – many of my relatives are in Hammond on this day to pay respects to my great uncle who died in the Vietnam War at the age of 19. To others present, he is a brother, an uncle, and a great-great uncle. Though as we become more distant relatives with each generation (I think June and the young boy would be 4<sup>th</sup> cousins), in this very cemetery each of us can trace our heritage back to the first Wagner to immigrate to the United States. In fact, every generation of direct ancestors in the Wagner line to have lived in America is buried at St. Clements. This is a history that dates back to before the Civil War and is emblematic of the generations protected by veterans in wars past.

I'm proud of where I come from and to be in this community that together honors those who sacrificed so much to protect the precious freedoms and blessings we have in this country. To be able to share this moment of tribute among so many generations of my family, for me, makes it all the more meaningful and all the more important that these sacrifices be remembered.



## Transfer-on-Death Applications Now Available for Motor Vehicles

Minnesota now allows vehicle owners to utilize a transfer-on-death designation (“TOD designation”) for their vehicles. Vehicle owners may accomplish this by including a beneficiary designation in an Application for Transfer-on-Death Beneficiary (Form PS2004). This Application must accompany a completed Application to Title/Register a vehicle (Form PS2000) and the original certificate of title for the vehicle. These documents should be submitted to the Minnesota Department of Public Safety, Driver and Vehicle Services Division for processing with a fee of \$38.00. Once processed, the TOD designation should be kept with the original certificate of title; DVS will not issue a duplicate title to a beneficiary.

The beneficiary does not have an ownership interest in the vehicle until the death of the owner or the last survivor of joint ownership, subject to the rights of all secured parties.

Transfer-on-death designations can be a low cost way to distribute both real estate and motor vehicles at death, maintain control of the property during life, and potentially avoid the time and expense of probate, especially for those who have relatively simple estates.

## Upcoming Seminars: Smart Estate Planning

We have two Smart Estate Planning Seminars scheduled, both at **125 Live**.

*Sometimes we tend to think only the ultra-rich need an estate plan. However, everyone already has an estate plan! Even if you don't have a will, your assets will eventually pass to your loved ones and be subject to the default rules. Through estate planning, you can guide the way in which your assets will eventually pass. By having a better understanding of estate planning concepts, you can start to take control of your estate plan and ensure your wishes are honored.*

**July 24, 2018 11:30 a.m. – 12:30 p.m.**  
**October 8, 2018 7:00 – 8:00 p.m.**

**Register by visiting**  
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**calling the office!**

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