

LAKE COUNTY
PROBATE COURT

FALL 2014



JUDGE MARK J. BARTOLOTTA

VOLUNTEER—

Make a DIFFERENCE in the life of a senior citizen! Help us advocate for those in need by volunteering to become a visitor.

For more information visit our website at -
www.lakecountyohio.gov/probateco

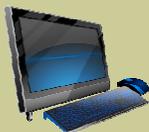
Together we will improve the quality of life for our senior citizens!

PROBATE TECHNOLOGY

Probate Court is pleased to announce our new WEBSITE! Judge Bartolotta is dedicated to providing efficient services to the citizens of Lake County and hopes that our updated more "user friendly" website will aid in making your court dealings easier and more efficient. You can find our new website at:

www.lakecountyohio.gov/probateco.

The new website offers our contact information; records search; forms and services; volunteer and senior information; the all new Guardian Handbook, and much more!



PUBLIC WIFI NOW AVAILABLE!

PROBATE NEWS

JUDGE MARK J. BARTOLOTTA

A MESSAGE FROM YOUR PROBATE JUDGE

It has been a pleasure and an honor to serve as Lake County Probate Judge over the past year. I have dedicated myself to treating our Lake County citizens with fairness, courtesy, respect and compassion — Working everyday to protect those who cannot care for themselves.

My staff and I look forward to serving you.

Judge Bartolotta takes personal approach to elder-care problems

Judge Bartolotta quickly learned to appreciate the value of the organizations we have available in Lake County for seniors and for those in need of mental health services. "By working with others, the court can help find more answers and solve more problems" said Judge Bartolotta. "By coordinating services, we create a more effective, efficient court system."

To accomplish this goal, Judge Bartolotta takes time out of his busy day to visit elder-care facilities across Lake County. "One of the main functions of Probate Court is to ensure we are properly taking care of the elderly," said Judge Bartolotta. Through his visits, the Judge was able to determine both the

needs of the facilities and the needs of the wards. He wanted to see "first hand" that the court was helping in every way possible by informally meeting with residents, staff and social workers. "I am impressed with not only how well the facilities are run, but also with the excellent level of care they are providing to our seniors and the wards of this court."

To help promote a more effective court system, Judge Bartolotta has collaborated with agencies such as:

- Lake County Council on Aging
- Lake County Senior Centers
- Lake County Hospital Systems
- Beacon Health

- Lake County Bar Association
- Adult Protective Services
- Lake Metroparks
- NAMI
- Signature Health

A HUGE thank you to all of our Lake County Senior and Mental Health Agencies and Advocates!



Digital Estate Planning— Judge Mark J. Bartolotta

Can your family access your digital photo albums after your death? Can you leave your iTunes collection to someone in your will? How does your executor terminate your Facebook account?

Considering how much information we keep on computers and on the Internet, estate planning just isn't complete anymore without including digital assets and social media accounts. What will happen to these as-

sets when we become disabled or die? Would a family member or fiduciary know where to find important documents? It wasn't that long ago that we had only paper records. We could simply point to a file cabinet or drawer and tell someone that everything is in there when the time comes. But if you scan documents or receive financial statements electronically, someone else may not even know these assets exist. If you use a program like Quicken or Quick-

books and tax preparation software, those records are on your computer, too.

Much of the information stored on computers, hard drives and online accounts is password protected. Unless you make arrangements in advance, family members or fiduciaries may not be able to access these resources, the information will be lost forever, or a financial asset may be overlooked.

What are Digital Assets?

Hardware: personal cell phone, business cell phone, safe/lockbox, home computer, office computer, tablet device, music device, camera, router/networking device, external hard drive, flash drive, CD/DVD.

Software: Word and Excel documents, Quicken or Quickbooks financial records, tax preparation programs and filed tax returns.

E-mail: family e-mail, personal e-mail, work e-mail if you own your own business (Gmail, Yahoo, Hotmail).

Social Media/Networking and Online Presence: Facebook, Twitter, LinkedIn, Google+, Foursquare, YouTube, Hulu, Pinterest, Friendster, Meetup, Instagram, Flickr, Photobucket, Shutterfly, your own website and blog (if applicable).

Online Merchant Accounts: Amazon Kindle/Prime, Apple iTunes Store, Barnes & Noble, Ebay, Paypal, Netflix, various rewards programs.

Instant Messaging: Google Talk, Skype, AOL Instant Messaging, Microsoft Messaging, Yahoo Messaging.

Online Financial Accounts: Bank account, brokerage account, credit card account, utility billing, cell phone billing, Mint.com, tax preparation.

Websites, Blogs, Domain Name Hosting and Registration: GoDaddy, NetworkSolutions.

Online Storage Accounts: Apple iCloud, Dropbox, Google Drive, Microsoft SkyDrive, Carbonite, Box.net.

Estate planning for digital assets and social media accounts is similar to estate planning for other assets. You need to make an inventory of what you have, name someone to step in for you, provide that person with access, and provide some direction for what you want to happen to these assets. Here are some suggestions to help you get started.

1. Make a List of Your Digital Assets and Accounts

Listing your digital assets according to the categories described above will help make the job of planning a little easier. Cleaning up and organizing your computer desktop and files would be a thoughtful thing to do, too. Include a general overview of where each item can be found or accessed, what information is available or stored in each asset, and how to access the device, account or information.

2. Select a Successor

Think about who you would want to access your computer and other electronic devices, your email, and your online accounts during a period of disability or after your death. This person should have some computing know-how. Like with other estate planning activities, it would be a good idea to talk to the person you choose now and let others know your plans.

3. Provide Access

Include in your digital asset inventory a listing of user names, passwords, PIN numbers, the site's domain name, and any other information necessary to access the account or device. If you change your password, you'll need to change it on this inventory. While we are cautioned to never write this kind of information down, it will be necessary for your successor

to have access to this information in order to manage your digital assets according to your directions. Keep this inventory in a safe place (even in a safe deposit box), and tell your successor where it is. Do not store it unprotected on your computer; if your computer is stolen, the thief would have all of your passwords. If you store your inventory on your computer, password protect the file and give that information to your successor.

4. Provide Instructions

Facebook, LinkedIn, Twitter, websites, blogs and email accounts can all be used to notify others of a death. Facebook will "memorialize" a user's account so that others can view it and write remembrances on the user's wall. Email can be configured to send an auto-response informing the sender of a death and where to forward information.

If you want a site to continue, for example, if you have a website or blog, you need to leave instructions for keeping it up, or having someone take it over and continue blogging. If a site is currently producing or could produce revenue (e-books, photography, videos, blogs), make sure your successor knows this and make mention of this possible property in your estate planning documents. If there are things on your computer or hard drive that you want to pass on (scanned family photos, ancestry research, a book you have been writing), put them in a "Do Not Delete" folder and include it on your inventory list.

Closing down accounts that are no longer needed will help to protect you and your family from identity theft if you become disabled and after your death. If you want an account to be closed, you may want a copy made and saved first, especially if it contains photos or writings.

Tech companies differ in how they treat accounts of deceased

users. For example:

Facebook locks and memorializes the user's profile if anyone notifies Facebook of the user's death. Alternatively, Facebook will close a user's account at the request of a close family member.

Google maintains an "Inactive Account Manager." Although the name does not reveal the feature's nature, the manager is actually useful in the event the account user passes away. The manager allows the account user, while he or she is alive, to control what happens to the profile upon death. The user can request the account be closed, a YouTube video be sent to friends, the account password sent to a specific person, or many other options.

Twitter deactivates the account if an immediate family member or authorized person provides the user's death certificate and other information for identification.

LinkedIn removes deceased members if a person submits the proper form with the correct information.

Yes, it will take some time to think about what you want to happen to your digital assets and to organize this information. But if you don't do this, your family will not know where to begin and they could miss or lose something valuable. Be sure to identify your digital asset inventory in your other estate planning documents to bring those assets into your planning along with your other more traditional property. Just like your other estate planning, the more you can do now to put things in order, the easier it will be for your family later.

Digital Estate Guide, *What is Digital Estate Planning?*, <http://www.digitalestateguide.com> (2014); WealthCounsel, LLC, *Estate Planning for Digital Assets and Social Media*, <http://www.estateplanning.com> (June 4, 2012); LegalMatch, *What is Digital Estate Planning?*, <http://www.legalmatch.com> (May 23, 2014).

"You need to make an inventory of what you have"



Is a Tablet Will a Will? By Angela G. Carlin

Ohio has required for many years in Revised Code 2107.03 that, except for oral wills, every will shall be in writing but may be handwritten or typewritten, signed at the end by the testator or by some other person in the testator's conscious presence and at the testator's express direction. Further, the written will shall be attested and subscribed in the conscious presence of the testator by two or more competent witnesses who saw the testator subscribe, or heard the testator acknowledge his signature. The statute does not require that the writing be in any specific form or medium. In recent years, because of the many advances in communication, and the retention of information, the type of writing to create a valid will is evolving and probate courts are faced with everything from emails to DVDs to post-it notes to determine if such nontraditional "writings" are intended by the testator to be a valid will. The trend in many states has been to move away from strict statutory formalities to exceptions for writings that contain harmless errors or mistakes. This author previously discussed in this publication both the "harmless error" statute in Ohio, RC 2107.24, and described the "conscious presence" requirement in RC 2107.03.

The recent Lorain County, Ohio case of In Re: Estate of Javier Castro, Deceased, is an example of this broadening trend away from strict will execution formalities. Javier was hospitalized in Lorain, Ohio when he was concerned about preparing a will. His two brothers, Miguel

and Albie, were with him and since no one had any paper or pen or pencil, Albie offered his Samsung Galaxy tablet to Javier to write his will. The tablet had a program which allowed someone to "write" on the tablet with a stylus pen and the information would be preserved exactly as written. Javier dictated the terms of his will which Miguel handwrote on the tablet. Each separate provision and then the whole writing was read back to Javier. Before he could sign the will, Javier was transported to a hospital in Cleveland, Ohio where he signed his will on the tablet in Miguel's presence. Albie signed the will in Javier's presence later and Javier acknowledged his signature on the will on the tablet to a third witness, his nephew, Oscar. Albie testified that the unaltered will was in his possession after Javier's execution and a paper copy was presented to the probate court after Javier's death. Javier and the three witnesses were all over 18 years of age, and the witnesses testified that Javier was of sound mind and memory and under no restraint. Javier's niece testified that he told her that he signed his will on the tablet before he died on January 30, 2013.

Six witnesses testified that Javier never expressed any desire or intention to revoke or amend the tablet will. The will contained no attestation clause but merely contained the signatures of three men who testified they witnessed such will. Javier's signature is a graphical image stored by electronic means on the tablet. The Lorain County probate court held that the tablet will conformed to the requirements of RC 2107.03. In addition, the court cited RC 2107.24, the "harmless error"

statute, that when an executed document which purports to be a will is not executed in compliance with RC 2107.03, the document shall be treated as a will if a court, upon hearing, finds that the decedent prepared or caused it to be prepared, the decedent signed the document intending it to be his will, and signed such document in the conscious presence of two or more witnesses, which means within the range of the witnesses' senses, excluding the sense of sight or sound that is sensed by telephone, electronic or other distant communication. This is a case of first impression since Ohio has no statutory or case law concerning a will in electronic form. The focus of this article is to encourage the making of a will or any estate planning document before an emergency situation arises to avoid the expense of litigation after the death of the testator.

If you have any questions about this topic, please contact an attorney. ■



Weston Hurd, LLP
www.westonhurd.com

"This is a case of first impression since Ohio has no statutory or case law concerning a will in electronic form".

Are You A Newly Appointed Guardian?

Do you have concerns regarding your Ward? Do you have questions regarding the guardianship procedure? Are you able to timely and properly fill out the guardianship forms?

Find answers to these questions and a whole lot more in our new:

—GUARDIAN'S HANDBOOK —

Located on our website under the guardianship tab www.lakecountyohio.gprobateIcoFormsandServicesGuardianship.aspx

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YOU CAN FIND US AT —
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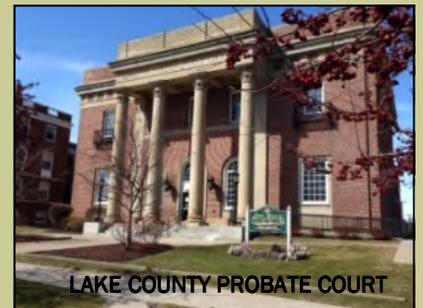
Lake County Probate Court

Inside this Issue:

- Technology Tips & Estate Planning
- Courtroom WiFi
- New Website Information!
- New Guardian's Handbook Info

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