

# PLANNING FOR YOUR ONLINE ACCOUNTS AND DIGITAL LEGACY

## Why You Need a Digital Estate Plan

*Blue-gray Gnatcatcher at the Living Desert in Palm Desert, California. With the help of Earthjustice, a federal court recently dismissed a lawsuit seeking to remove the imperiled bird from the protections of the Endangered Species Act.*

**H**ave you ever stopped to think about what happens to your digital presence — your Facebook photos or email accounts — once you're no longer here to manage your online accounts?

These days, many of the records documenting your finances and your estate may be entirely digitized. While paper versions of formal legal documents may still be saved, many financial, business, personal and administrative documents may primarily exist in a digital form, a trend that will continue to grow.

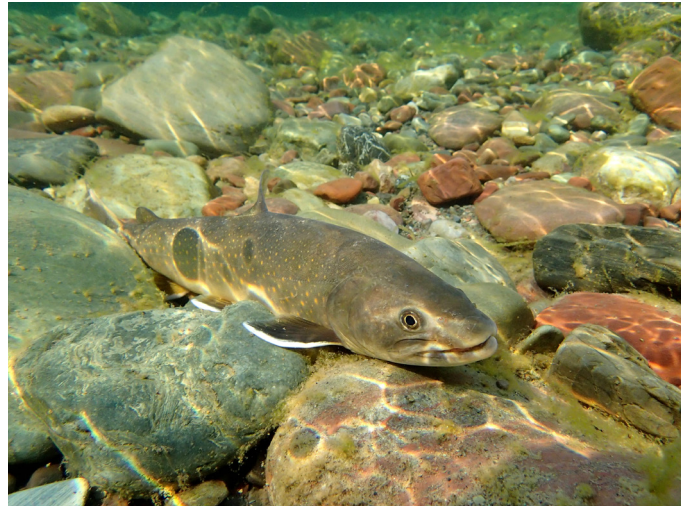
And while many people manage their finances, business and personal lives online, very few have organized or centralized those accounts. This can make managing and distributing these assets difficult after the person has died, and can lead to confusion for family members, denial of access and even an inability to locate the accounts or information in the first place.

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With full access to your digital assets and accounts, the people settling your estate will find it easier to preserve and protect sensitive information.

**Here are some examples that illustrate why it's important to plan now for your digital legacy:**

- You may be surprised to learn that much of your digital content, your social media postings and profiles, and your email accounts live on in various degrees of limbo after your death.
- Digital assets can be the key to unlocking other assets with financial value.
- Some online assets have intrinsic financial value, including blogs and even user names.
- Genealogical information is commonly stored online. You may have created a digital family tree that you or your family would like to preserve.
- The AARP estimates that the identities of 2.5 million deceased Americans are subject to fraud each year and concludes that the crime often begins online. Careful control of information such as dates of birth, names of family members — specifically mother's maiden name — and place of residence is critical to preventing fraud.
- Automatic payments and other transfers for recurring expenses will continue after your death unless you give your executor access to your accounts to shut them off.



*Earthjustice is challenging the Trump administration's efforts to undo the landmark 1972 Clean Water Act, which stops polluters from dumping toxic byproducts into our waters.*

Don't have a digital estate plan? You're not alone. According to a recent survey, 63 percent of us don't know what will happen to our digital assets when we die. Taking care of this often-overlooked task can provide you and your loved ones greater peace of mind.



*Earthjustice successfully prevented the construction of a 43-mile-long pipeline through Mojave Trails National Monument. Without legal interference, the water-mining project would drain life-giving springs in the Mojave Trails National Monument and surrounding public lands, killing vegetation and destroying key habitat for a host of desert wildlife.*

## SEVEN SIMPLE STEPS TO CREATING YOUR DIGITAL ESTATE PLAN

### STEP 1: Choose Your Digital Executor

A digital executor does not replace a traditional executor — or may even be the same person you designate as your legal estate executor — but serves in a complementary capacity. In many states, a digital executor may not be legally recognized, so it's a good idea to check with a local estate attorney to learn about the laws around digital estate planning in your state.

The digital executor's job depends on what you want done with your digital property after your death. These tasks can include:

- Archiving personal files, photos, videos and other content you've created
- Deleting files from your computer or other devices, or erasing hard drives
- Maintaining certain online accounts, which may include paying for services to continue (such as web hosting services)
- Closing certain online accounts, such as social media accounts, subscription services or any accounts that are paid for (such as Amazon Prime)

- Transitioning any transferrable accounts to your heirs
- Collecting and transferring any money or usable credits to your heirs
- Transferring any income-generating items (websites, blogs, affiliate accounts, etc.) to your heirs
- Informing any online communities or online friends of your death

It is very helpful to identify your digital executor in your will, particularly as access to online accounts after the owner's death is not yet fully covered by existing law. So it's helpful to give your designee the most formal sanction possible — inclusion in your will, along with explicit permission to log in using your passwords and to act on your behalf.

## **STEP 2: Inventory Your Digital Assets and How to Access Them**

*You'll find a sample inventory worksheet at the end of this publication.*

Maintain two separate password-protected lists: one with your online passwords and the other with your user names or account numbers. Do not keep all that information in one place — doing so puts you at risk of identity theft and fraud. Update these inventories at least once a year or, ideally, whenever you register on a new site or change a password.

You may also want to consider using a password management program, such as 1Password, Dashlane and LastPass. Acting as a central hub for the many spokes of your digital life, these sites serve as databases where you store your login information for every website and service you use. The programs generate complex, secure passwords for each site and allow you to remember just one password — the one required to open the password management program. This means that with a single password, your executor gains access to all of your accounts, even if you have updated or changed passwords on individual accounts.



*By taking action to prevent logging in Tongass National Forest in Alaska, we also protect the wildlife that depend on it for survival, including the Sitka Black-tailed deer.*

### **STEP 3: Determine the Terms of Service for Your Accounts**

Email and social media providers such as Twitter and Facebook have specific terms of service that provide the legal baseline governing access to the accounts (access rights also vary by state). While you can control who can access your bank account, insurance proceeds and mutual funds, you may have surprisingly little control over who can access your digital legacy — unless you make arrangements ahead of time.

### **STEP 4: Ensure Your Key Estate Planning Documents Contain Relevant Language**

The Uniform Fiduciary Access to Digital Assets Act (UFADAA) has been written to guarantee that a personal representative/executor has the same authority over digital assets as the account holder. However, this model law is currently being adopted on a state-by-state basis. At a minimum, have your attorney ensure that your will or trust (as well as any powers of attorney) includes explicit permission to log in using your passwords, access your accounts and act on your behalf.



*With the help of Earthjustice, a Montana District Court struck down a water permit for a proposed silver-copper mine that would have bored beneath the Cabinet Mountains Wilderness in Montana.*

### **STEP 5: Store Your Information in a Safe Place**

Since your digital inventories contain personal information that could lead to identity theft and fraud, be very careful about where you store them. Make sure someone you trust — your spouse, child or best friend, as well as the executor of your estate — knows how to access your information. Store the electronic file itself on your home computer or on a USB drive kept in a secure location. Keep the password for accessing the electronic list with your original estate planning documents or in a safe deposit box.

### **STEP 6: Decide and Document the Fate of Your Digital Assets After Your Death**

Your will or trust and your beneficiary designations should document how you wish to distribute your monetary assets, so you don't need a separate written plan for the financial accounts you access online. But you do need to decide how you want to handle all remaining digital assets — Facebook pages, Twitter feeds, photo-sharing and cloud-based-service content, etc.

- Do you want your social media accounts deactivated after your death, or do you want them to remain online as a memorial to your life?
- If you want your social media accounts to remain online, do you want to craft a message that will be posted in the event of your death?
- Do you want prints of cloud-stored photos sent to family members?
- What about the contents of iTunes, Dropbox or other online storage services?

Remember, your digital assets have sentimental, historical and financial value. You may want to preserve some, such as videos, pictures and music, for loved ones. However, you may wish to destroy others, such as personal correspondence or your browsing history.

No matter your intention, it will become reality only if you diligently plan for the future and take action now to make your final wishes known.

### **STEP 7: Consult Your Estate Planning Attorney**

The most prudent step to protect your online assets is to consult your estate planning attorney, who should be up to date on the law in your state and familiar with the terms of service for the most frequently used online providers.

A plan for your digital assets should accompany other important estate planning documents, including your will or trust; powers of attorney for financial and health matters; a HIPAA release form that permits access to your health information should you be incapacitated; and beneficiary designation forms for retirement, insurance and other financial accounts.

Many people like to leave a gift to charity in their plans. We hope you will consider creating a legacy for the environment by including Earthjustice in your estate plans.

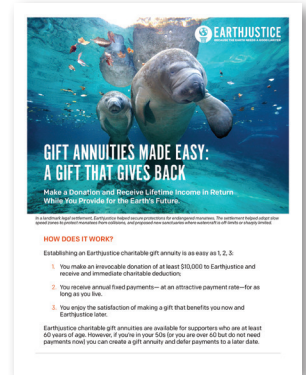
**To include a gift to Earthjustice in your will, trust, or by beneficiary designation, we recommend you use this language:**

"I give to Earthjustice, a nonprofit corporation currently located at 50 California Street, Suite 500, San Francisco CA 94111, or its successor thereto, \_\_\_\_\_ [written amount or percentage of the estate or description of property] for its unrestricted use and purpose."

Legal Name: Earthjustice  
Tax ID Number: 94-1730465

# Download our other complimentary planning publications at

[earthjustice.org/legacy/resources](http://earthjustice.org/legacy/resources)



## We are here to help.

For assistance in crafting your personal legacy, for more information, or to notify us that you have left a gift for Earthjustice in your will, please contact our team of gift planning experts:

**EMAIL:** [legacy@earthjustice.org](mailto:legacy@earthjustice.org)

**MAIL:** 50 California Street, Suite 500, San Francisco, CA 94111

**WEB:** [earthjustice.org/legacy](http://earthjustice.org/legacy)

**PHONE:** (800) 584-6460



*This publication is not intended as legal, accounting or other professional advice. For assistance in charitable planning, always engage the services of a qualified professional.*

## SAMPLE DIGITAL ASSET INVENTORY

Use this form to create a summary list of digital accounts, along with user names and passwords. Be sure to update this form periodically and, as noted earlier, keep this information with your other estate planning documents — your will or trust and your powers of attorney — and store one copy with your executor, personal representative or trustee.

**Computer and Phone Equipment.** List all personal and professional computers, tablets, netbooks and smartphones, along with user names and passwords to access each device.

Device	Location	User Name	Password	Preferred Disposition
Example				
iPad	Home office	Mary Smith	12345	Donate

**Email Accounts.** List all email addresses, describe what activities the email account is used for (e.g., personal, professional or reserved for retail and other commercial emails) and indicate the password.

Account	URL	User Name	Password	Preferred Disposition
Example				
Gmail	Gmail.com	Mary Smith	12345	Deactivate

**Social Network Profiles.** List the user names and passwords for each social network profile, such as LinkedIn, Facebook and Twitter.

Account	URL	User Name	Password	Preferred Disposition
Example				
Facebook	Facebook.org	Mary Smith	12345	Deactivate

**Blogs, Webpages and Domain Names.** List all blogs, domain names and personal or professional websites and the registrar/host for each.

Account	URL	User Name	Password	Preferred Disposition
Example				
Personal blog	Marysmith.blog spot.com	Mary Smith	12345	Archive



**Financial Information.** List each bank and brokerage account that you access online and your user name and password for each account. If you have a PayPal or other online purchasing account, list your user name and password for that as well.

Device	Location	User Name	Password	Preferred Disposition
<b>Example</b>				
Brokerage Account	Morganstanley.com	Mary Smith	12345	Per my beneficiary designation

**Digital Photos.** List any photo-sharing websites you use and your user name and password.

Account	URL	User Name	Password	Preferred Disposition
<b>Example</b>				
Shutterfly	Shutterfly.com	Mary Smith	12345	Name (daughter) as owner of account; archive photos for family

**Other Online Accounts/Information.** List any other online accounts or digital information that may be important or valuable, including airline, hotel and other travel reward sites and password.

Account	URL	User Name	Password	Preferred Disposition
<b>Example</b>				
Student Loan	Student Loan.com	Mary Smith	12345	Per my estate plan for debt resolution
Credit card	Mastercard.com	Mary Smith	12345	Per my estate plan for debt resolution

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