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The Lawyer's Daily | 111 Gordon Baker Road, Suite 900 | Toronto, ON M2H 3R1 | www.thelawyersdaily.ca  
Phone: (800) 668-6481 | Fax: (905) 479-3758 | John.Carson@lexisnexis.ca

## Obituary Fraud

# Rethinking the obituary in digital age: Planning and guidance

By Sharon Hartung



Sharon Hartung

(January 16, 2020, 8:39 AM EST) -- Discussion about one's e-mail and obituary has not been traditionally part of an estate lawyer's conversation with the testator (or will-maker). But in the digital age, not only should digital assets and the client's ever-expanding digital estate be part of the conversation, but so should a risk assessment of the role facing the executor. In other words, is the executor up to the task of handling the digital estate?

Encourage the client to talk with their fiduciary (executor, estate trustee) about their obituary or written memorial wishes -- not only as it relates to how the person wants to be remembered, but more importantly in the digital age, cautioning the executor about how much personal information should or should not be included in any publication. Several examples:

1. Review any jurisdictional legal requirement for notifications upon death, for creditors or otherwise. Discuss with the client and their fiduciary what is the minimum information required for legal notification.
2. Review the need for the traditional newspaper or alumni obituary at all. If the client still has wishes for an obituary or memorial notification, advise the client and their fiduciary to eliminate or reduce the amount of personally identifiable information in the obituary.

Examples of eliminated or reduced information:

- Do not provide a birth date. Provide less precision on a death date. Eliminate the date and month, and use the year sparingly, or round to "x years young," or consider if this information is necessary.
- Reduce the precision in the name. Consider using a common name or nickname versus a full legal name, delete the middle name, delete other names (also known as), and rethink the need to include maiden names (nee).
- Eliminate the names of family members, perhaps referring to loved ones by role. "So and so is survived by their loving spouse/partner, six children and 12 grandchildren."
- Eliminate names of cities, schools, degrees and any other specific pieces of information that can be used for identity theft or fraud by social engineering.
- Avoid any chronology of personal or work/career history that involves specific names, dates and locations.
- Avoid providing specific information (e.g., date, address) about the funeral or celebration of life particulars. Provide a channel for attendees to obtain information that is not public.

3. Discuss other options for what can be included instead. Focus on the attributes of the individual, the contribution, the character, the stories, something that is unique and memorable, but does not provide information that could be compromised. One of the most interesting

examples I saw on Twitter was of a picture of a gravestone with “Mom’s Cookie Recipe” engraved on the back of the headstone. It is totally personal, conjures up memories of family gatherings and personal connections, but doesn’t give any identifiable information.

4. Encourage a client to discuss their memorialization preferences and wishes about their social media and publicly available platforms with their fiduciary. Do they want these to remain online, memorialized or removed? Currently, very few providers offer preplanning options other than closing an account, but I expect this to change in the coming years. For example, if your client has Facebook, they should consider choosing memorializing options and selecting a legacy contact if they want tribute posts or continued account management; otherwise the client can indicate they wish their account deleted after death, provided Facebook receives notification. It is recommended that a client locks down their privacy setting of their social media accounts while living in addition to selecting pre-planning options as they become available. If the client plans on choosing a legacy contact other than the executor, you should inquire why.

5. Consider other memorial and notification options. There are an emerging number of tech entrepreneurs offering personalized memorialization options to leave messages to specific loved ones versus public announcements.

6. Encourage clients to close accounts they don’t need and check the privacy setting on all their online accounts. A concerning privacy risk not only in life but upon death, is a wide open or poorly protected account where anyone in the world, by the simple click of a mouse, can see your profile or comment on your timeline. Potentially, a wide open profile upon death alerts a global bad actor, and they might just hear about your passing before the important people in your life.

7. Among the many ways that a fiduciary could secure a deceased person’s life, including securing assets and informing government agencies and institutions (e.g., Service Canada) would be for the testator (will-maker) to let the fiduciary know in advance they should also be contacting and informing the credit bureaus (e.g., Equifax, TransUnion).

8. Some funeral homes have preplanning options and services for not only memorialization but also insurance for identify theft after death. A study from ID Analytics, a San Diego based company, claims the personal details of nearly 2.5 million deceased Americans are used every year to illegally apply for credit products and services. The study also found that fraudsters use the identities of the deceased at a rate of more than 2,000 per day.

9. Additional Canadian information about fraud, identity theft and privacy awareness and prevention can be obtained from such agencies as Canadian Anti-Fraud Centre (CAFC), RCMP Scams page, Canadian Centre for Cyber Security (CCIRC), Government of Canada Get Cyber Safe, Office of the Privacy Commissioner of Canada and the Canadian Radio-television and Telecommunications Commission (CRTC). A U.K. source is the National Cyber Security Centre.

10. From a project management perspective, with the prevalence of social media, doing nothing could be just as risky as providing too much personal information. It is much better to have a carefully worded announcement with minimal information versus nothing at all. In a vacuum the risk is someone other than the fiduciary creating and writing a snowball post that broadcasts and r-broadcasts way too much personally identifiable information.

This is the second of a two-part series. Read part one: [Rethinking the obituary in digital age](#).

*Sharon Hartung, TEP, is the founder and principal of Your Digital Undertaker and has over 30 years of experience in IT management, project management and consulting. She is the author of the newly published Your Digital Undertaker — Exploring Death in the Digital Age in Canada.*

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