

# Digital Assets. What Are They & How Do I Protect Them?

by Desiree Rivera, Esq.



Our lives essentially revolve around technology and this trend is only continuing to grow.

Nearly all of our important documents and files, whether they be personal, business or financial, are stored on various digital platforms. Therefore, it is extremely important to ensure those documents and files, also referred to as digital assets, are not only protected for you *now*, but for your heirs after you pass.



## What are Digital Assets?

Digital assets are electronic files that are stored on a digital storage drive or computer system. Simply put, digital assets are those assets that exist in any sort of digital format. Many times, because of the sensitive or personal nature of the files, the digital assets are protected by a username and password, which can prove both beneficial and troublesome.

Common digital assets that accessed through our desktop computers, laptops, iPads, smartphones, etc. include:

- Email accounts
- Online banking and brokerage accounts
- Digital rights to motion picture, literary, musical, or theatrical works (Apple TV & Music, Netflix, etc.)
- Subscriptions with automatic renewal charges
- Online blogs or video channels (especially where content is monetized and produces a revenue stream)
- Cryptocurrencies
- Photos and videos
- Social media accounts
- Other personal online accounts, digital documents or files with personal information

## Risk & Heartache

What would happen if you suddenly passed away and your spouse or children have no way of accessing your usernames and passwords for your online bank accounts, social media accounts, online subscriptions, email accounts and

other personal digital files? If no one you trust is able to access your files, letting them linger untouched is a recipe for a costly disaster and emotional heartache.

The costly risk is that someone could hack into an online bank account or credit card and rack up charges the surviving spouse never knew about until too late. Or someone could commit identity theft, gaining access to all sorts of online accounts and files, creating months, if not years of costly and time-consuming problems.

Social media accounts allow people from afar to stay in touch and if distant friends and relatives are not made aware of someone's passing, they will continue to wish the deceased "Happy Birthday", send them messages, and tag them in old photos without realizing they are gone.

## PASSWORD ORGANIZER

REMEMBER:  
KEEP THIS IN A SAFE AND INCONSPICUOUS  
PLACE IN YOUR HOUSE!

<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:	<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:
<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:	<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:
<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:	<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:
<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:	<b>WEBSITE</b> USERNAME: PASSWORD: EMAIL USED: SECURITY ANSWER: MISC NOTES:

## How to Protect Your Digital Assets

Digital assets, like other assets, can be passed on to designated parties through your estate plan. However, the laws regarding digital property are still evolving and as a result, access to digital assets after a loved one has passed or becomes incapacitated can prove difficult.

In addition, there are a variety of laws, including federal privacy laws, that aim to protect consumers against fraud and identity theft, and prohibit online account companies or providers from sharing information/contents to anyone but the owner (or someone who has obtained the owner's lawful consent). However, after a loved one has passed, these same laws can also block family members from accessing important digital assets and information.

Digital files can also be encrypted, which adds another layer of protection against someone trying to decode a password. This makes it even harder for anyone who does not have access to your password to access your file, including your family members after you've passed.

Imagine having a loved one pass away, but you cannot access their contacts in their phone to inform friends or family because their phone is password protected. Losing a loved one is already a highly emotional and difficult time and then piling on having to fight in court and pay for access to such files makes matters even worse and may be cost prohibitive for many individuals.

There are a variety of steps you can take to protect your digital assets, for you *now*, and for your heirs in the future, including:

- **Backing Up Data:** With everyone transitioning to storing files online, it is important to ensure that those files are backed up in case something happens to those files. It can be very helpful to backup files on a local computer or external hard drive storage device and do so on a routine basis.
- **Making a List:** Make a list of all digital asset accounts (including usernames and passwords) and store it in a secure place. Further, make

sure that list and its location are made known to those people you trust so it is accessible in the event of your incapacity or death. Finally, if you change a password, add an account, etc., make sure to update the list immediately after you change the information.

Create a list like the one pictured above and keep it in a safe and inconspicuous

place, making a trusted source aware of its location.

- **Update Estate Planning Documents:** You may want to consider whether your estate planning documents contain language addressing digital assets, referred to as a Letter of Instruction. For example, Law & Stein generally includes language regarding digital assets in its revocable trusts and amendments thereto. This language grants a trustee the right to access your digital assets and authorizes a custodian of any digital asset or electronic communication to obtain the trustor's password.

However, while a Letter of Instruction regarding access to your digital assets is beneficial to include within your estate plan, the number one priority remains to keep your own personal and updated list of your usernames and passwords of which your heirs are made aware. This avoids any potential issues with digital institutions introducing court proceedings to determine validity or issues with recent updates to this letter.

The bottom line is that taking steps now to protect these digital assets for yourself, and for your heirs in the future, will save everyone a lot of frustration, money and prolonged heartache down the line.

Should you have any questions regarding the above information or would like to ensure your estate planning documents properly address and protect your digital assets, please do not hesitate to contact us.



### **We look forward to serving you & wish you the best**

We continue to work for new and existing clients during COVID-19 (coronavirus) while placing safety and health as a priority. We are happy to accommodate your needs, including Facetime, SKYPE and ZOOM for virtual, face-to-face connections. Contact us directly to speak with someone who can help answer your questions.

T (949) 501-4800

Or send us a private email at the link below and we will respond promptly:

[info@lawandsteinllp.com](mailto:info@lawandsteinllp.com)

Visit our website for more information and to review our partner and attorney bios:

[www.LawandSteinllp.com](http://www.LawandSteinllp.com)

The Law & Stein Newsletter is a monthly publication to share useful information with our clients in matters of estate planning, tax planning, inheritance dispute litigation, elder abuse, probate and business litigation, and premises and product liability defense.

LAW & STEIN LLP  
2601 Main Street, Suite 1200  
Irvine, CA 92614  
[info@lawandsteinllp.com](mailto:info@lawandsteinllp.com)

