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## It's National...

### Social Media Day on June 30th

World Social Media Day was launched by Mashable on June 30, 2010 as a way to recognize social media's impact on global communication. Facebook is the most recognizable form of social media but the first ever social media platform was Sixdegrees (shut down in 2001). Friendster (2002) is considered the first modern social media platform. LinkedIn was the first business-focused social media platform and launched in 2003.

Instagram launched in 2010 and gained over a million users within the first couple months. Facebook purchased Instagram for \$1 billion in 2012. In 2014, Facebook purchased the messaging platform WhatsApp for \$16 billion but was unsuccessful in buying Snapchat. Snapchat reportedly turned down a \$3 billion offer from Facebook in 2013 and only time will tell if Facebook will attempt to purchase the new social media player TikTok.



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# Estate Planning Buzz

## Your Digital Footprint and Legacy

Did you know...People use social media for an average of 144 minutes a day! The needs of our estate planning clients are changing. The proliferation of digital technology is changing the need for additional planning. Michigan has enacted Legislation in this area to guide us. Our clients count on us for effective estate planning and administration. We are remiss in our responsibilities if we fail to be proactive in ensuring the proper handling of all types of accounts including digital assets.

Obtaining access to accounts like email, cloud-based storage, social media and even files on a hard drive is critical to ensuring property is discovered and distributed to loved ones and heirs. If not properly planned for, maintained and managed, assets can be lost or overlooked, adding unnecessary expense and stress. Not to mention, this can potentially become a breeding ground for identification theft and fraud. It's an emotional and logistical nightmare leading to incomplete estate administration as well as potential liability. What can be done?

Our office can help guide you in first gathering what digital accounts you have and then coordinate your wishes inside your estate plan with the use of a service that records digital property, online account and final directives. This service will provide account deletion, transference, memorialization or other instruction. Contact us today to get started at (248) 409-0256 or info@ferrilawpllc.com. — *Math*

# Social Media in the Courtroom

## Emojis and FaceBook Posts

Courts are beginning to explore the idea that emojis and emoticons can be used as evidence. *US v. Ulbricht*, raised the question whether online chats should be read aloud to the jury or if the jury should read transcripts of the online chats which included emoticons that are not communicable in oral context. The judge noted the emoticons as relevant to the jury's understanding of the online chats.

In *Elonis v. United States*, the Supreme Court remanded a case where Plaintiff Elonis argued that a Facebook post which contained threatening language could not be construed as a credible threat because he included an emoji of a face sticking out its tongue, thereby reducing threatening language to the level of a joke and removing any intentionality. At the appeals level, the conviction of Mr. Elonis was upheld, and the emoji was not found to have mitigated sufficiently the threat conveyed in the written words.

In a case where the court specifically found clarity in an emoticon, the Michigan Appeals Court decided against a plaintiff suing for defamation based on critical posts made about the plaintiff's job performance as acity employee. The decision for *Ghanam v. Does*, finds that the joking tone of the following post was made clear by the emoticon, "They are only getting more garbage trucks because Gus needs more tires to sell to get more money for his pockets :P." About which the court wrote: This statement on its face cannot be taken seriously as asserting a fact. The use of the ":P" emoticon makes it patently clear that the commenter was making a joke. As noted earlier, a ":P" emoticon is used to represent a face with its tongue sticking out to denote a joke or sarcasm. Thus, a reasonable reader could not view the statement as defamatory.



# Tips for Your Digital Accounts

## Some simple steps to take

Social media content, like most content on the web, will continue to persist unless the you delete it. This brings up the inevitable question of what to do when you die, Each platform differs, but here are a few samples and what your options are:

- Twitter: If a user has died, the company will work with an immediate family member to deactivate the account and Twitter will not give the account to any person(s), regardless of the relationship
- Facebook: Users have the option to permanently deleted their account when one dies. There is also an option for 'legacy contact'
- LinkedIn: A family member can request that the account be shut down. The family member must provide the URL to the account, proof of relationship, the account user's email address, date of death, a link to the obituary, and the name of the last company the deceased worked for.

# Take A Break

Can you spot the 7 differences?

