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Two events triggered the idea for this month's newsletter. The first was an article in the *New York Times* magazine of January 9, 2011. I have been carrying the magazine around with me for some time, as it had an interesting article entitled "Things To Do In Cyberspace When You're Dead". The article begins with the basic premise that should you die immediately after your morning coffee, you will have likely made some sort of arrangements for your personal effects. You may have left a will, placed items in trust, and if you haven't, the laws of the jurisdiction in which you live will likely step in to determine how your assets will be distributed.

The items that you may not have accounted for are all of the photos that you have uploaded, your Facebook status update, or your blogs or tweets. The article makes the point that we are no longer leaving "physical journals or shoeboxes of letters and photographs for heirs or the future" but instead we are accumulating "digital stuff". The article states that we are becoming "virtual hoarders".

This is an area of estate planning that we, the lawyers, are overlooking. The column refers to a tips and planning book called "Your Digital Afterlife" by Evan Carroll and John Romano, which provides advice on many matters, including appointing a "digital executor". I am not sure many of my colleagues are thinking very seriously along these lines of planning.

Even more interesting is whether or not our digital life will change the way that people grieve. The article gives as an example the story of a fellow named Mac, who was single and childless, and who paid his bills by doing odd jobs and was a writer. He had many online friends.

On October 18, 2009, he updated his blog, sent some public and private messages via Twitter, went to bed and died of cardiac arrhythmia. His last entry led to many comments on the post and finally someone wondered why he had not updated the blog or tweeted for two days. A comment then appeared advising the followers that he had passed away earlier that week. That comment was made anonymously. The posting led to many entries questioning whether or not the comment of his death was true, and then led to a conclusion that it was, which led to a "mix of tributes, grieving and commiseration". You can still read all this today, in a thread that runs to more than 250 comments. Mac's mother said it was a very strange feeling, as she had no control over what was being said about him almost immediately. She felt that although she knew her son very well and thought she was close to him, she had little contact with his "digital self". By the time Mac's parents had been able to access his computer and get a better understanding of his blog and internet accounts, his online circle of friends had already essentially taken over. They had begun an online memo-

rial of Mac. His parents, who are described as “previous computer shunning” people, are now spending a considerable amount of time sending and answering e-mail and going through their son’s blog from the beginning. They are in regular contact with his online friends through e-mail.

This was considered by the authors of the article as probably one of the “best case scenarios for preserving something of an online life” but they noted that it has not been perfect. Many of the 250 pictures that he had uploaded using a service called Flickr can no longer be viewed, as the account lapsed. They may exist elsewhere but no one really knows where to look for them. If his account could be renewed, they might be restored; however, there is no method of doing that. No one has his password which is owned by Yahoo. For his blog, he used a free Google product and there are no fees to keep it updated but no one knows how long it will remain. To update, alter or modify it would require his password and again he did not leave that behind.

After finally reading the article I saw Tom Selleck interviewed on a late-night talk show. That was the second event that triggered this newsletter. In that show they replayed a commercial that Mr. Selleck had done the voiceover for less than 10 years ago. The commercial predicted and showed mock-ups of cars that would have built-in maps that would guide you to where you wanted to go, computers that you could use to talk to your friends in distant places and actually see them, and said that at some point in time we would have the ability to download, store and later watch television shows all on a small computer. When watching it, I was struck by the thought that anyone over 20 would probably recall the actual commercial and it was amazing how accurate many of the predictions were and how these items had, in such a short time, become a reality that we all use regularly, without a second thought.

This led me to think about the first newsletter that I did for Carswell on this site. It was done in 2008, only a little more than three years ago. In that article I discussed the “increasing pervasiveness of technology” in the preparation of wills. I reread it and I was surprised to see how very little has changed in the estate planning world. There are not many recent cases, nor any legislative changes that I am aware of about the ability to provide a digital will that would be valid as a holograph will is. Nor has there been very much progress in the estate planner’s world dealing with storing and updating people’s passwords and access codes. These passwords and codes are needed to allow their virtual life to be preserved or safely disposed of much in the way that we dispose of a person’s personal items, keeping those which we want and auctioning off, selling or otherwise disposing of those items that we no longer need or want.

Our current laws have not yet been adapted to incorporate technology. In Ontario, some of the Estates Courts have been encouraged to use e-mail when communicating with lawyers about amendments to their Applications for a Certificate of Estate Trustee. Not exactly high tech! My wills vault is now on a database with the actual documents imaged and connected to the file. That is about the only progress that I have made. And of course, this newsletter is now

typed on to a computer by me (I must admit that I did handwrite out that first one for my assistant to type), sent electronically to my editor who in turn posts it on the Carswell site to be electronically distributed, and I continue to hope that you find it useful and interesting! I think, however, that I can predict that the big changes are yet to come to the wills and estates practice.