



NEW CONNECTICUT STATUTE ALLOWS YOU TO GIVE YOUR FIDUCIARIES ACCESS TO DIGITAL ASSETS

Connecticut has a new statute known as the Revised Uniform Fiduciary Access to Digital Assets Act (“RUFADAA”). If you have any online accounts, this statute authorizes your appointed fiduciaries (executor, trustee or agent under a power of attorney) to access your accounts after you die or become incompetent if you have given them prior consent.

In this Internet age, many of us do not receive monthly bank statements or bills in the mail anymore. Rather, we receive notifications via email and access that information online. If something were to happen to us, who would know of those accounts? Even if someone knew of the accounts, would they be able to access them online? In addition, many of us have other online accounts which no one would be able to access if something happened to us, such as a blog or a domain that we own; digital currencies, such as bitcoin; accounts with iTunes, Amazon, LinkedIn, Twitter or Facebook; cloud-based photo storage; voicemail messages; and reward programs and credit card points. Some of these accounts have significant value while others have sentimental value.

As a result of RUFADAA, a fiduciary who has been authorized by the account holder will have the ability to obtain access to these “digital assets.” The custodian of the account has some discretion over how much access it will allow, whether full access, partial access, or a copy of a record of the digital asset. However, a fiduciary who has not been authorized by an account holder will be able to access only the “from” and “to” lines of emails but have no other access to digital accounts. If the account holder does not want the fiduciary to be able to access even the “from” and “to” lines of emails, then the account holder needs to prohibit anyone from having any access.

We recommend that everyone give consent to their fiduciaries to access their online accounts. We have a simple “digital asset authorization and consent form” which you may sign giving all fiduciaries appointed by you authority over your digital assets. It does not require witnesses or notary. You may open this link ([Authorization.pdf](#)) and print the form. Please mail the signed and dated original to your Brody Wilkinson attorney and keep a copy for your files. It is still a good idea to sign a consent form even if you have given your passwords to your family since they may be technically violating a service provider’s terms of service agreement which prohibits access by third parties.

We also recommend that you complete a digital asset inventory form which lists the names of your online accounts, usernames and passwords. You may open this link ([Inventory.pdf](#)) and print the form. Please keep this at home with your important papers. There also are services which allow you to store this

information online so that your fiduciary only needs to be able to access one account. Please be aware that because of encryption, a fiduciary may not be able to gain access to certain devices or accounts unless you have given him or her your password (e.g., iPhones and iCloud accounts). If there are too many failed attempts at passwords, the contents may be permanently erased.

Note that Connecticut has a new power of attorney statute and we have prepared a new form to comply with that statute. We have added to the form an optional power which gives the agent authority over digital assets. When you next update your estate plan, we recommend that you sign a new power of attorney including this language.

We understand that you may have sensitive online information which you do not want all of your fiduciaries to be able to access. We can tailor your estate planning documents if, for example, you have a specific individual whom you would like to name as your “digital agent” or “digital executor” or you have a specific email account which you do not want anyone to be able to access.

Please be aware that an online account provider may have an online means for you to give consent or deny consent to access your account. For example, Google and Facebook give you the ability to name someone who can oversee your account in the event of death, incapacity or inactivity. If you give/deny consent through this method, it will override any document you sign to the contrary.

We hope that you understand that in this Internet age, most of us, young and old, will need our fiduciaries to be able to access our online accounts. It is important that you give consent to your fiduciaries and keep a record of your accounts and passwords or else valuable “digital assets” may be lost forever after your death or incapacity.

For more information, please contact Lisa F. Metz (lmetz@brodywilk.com).