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Massachusetts Highest Court Rules in Favor of Personal Representatives' Access to Decedent's Yahoo Email Account Under Federal Law

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On October 16, 2017, the highest court in Massachusetts found that a federal law known as the Stored Communications Act (SCA) does not prevent the Personal Representatives of an estate from accessing the content of a decedent's Yahoo email account, but remanded the case to the Probate Court to resolve a second issue of whether Yahoo's terms of services agreement bars access.

John Ajemian died at the age of 43 in 2006 without a will. His brother and sister were appointed Personal Representatives of his estate and sought access to his Yahoo email account in order to contact his friends about his death. Soon after, they realized that access would also help them to identify his assets and administer the estate.

Yahoo denied access and argued that the federal SCA prohibited disclosure of the contents of the email account to the Personal Representatives. The Massachusetts Supreme Judicial Court ruled that this federal law permits a Personal Representative to consent to disclosure of electronic communication on behalf of the decedent. While this helps the Personal Representatives of John Ajemian's estate, it does not definitively allow them access, as Yahoo has independently argued that its terms of services agreement disallows access. This latter issue has been punted to the Probate Court for review.

This case raises the issue of estate planning with digital assets, which includes one's email accounts, content on computers and smartphones such as communications, photos and music, and content on web-based cloud systems. From a planning perspective, one might want to consider an inventory of digital assets, including user names and passwords, and a provision in one's estate plan for the disposition of digital assets.