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Day 2, Thursday 15th September

2:25-3:25pm: Hypothetical – Death and the Internet

NARELLE CLARK: So inspiring, isn't it? We're into the last session of the day today. And we're going to have some fun. We're going to have some fun with a topic that maybe is not always fun to talk about. To quote that great philosopher, Marvin Gaye, there's three things that's for sure – taxes, death and trouble. This, I know. This, I know. So we're going to try and help you a bit with the trouble part. Unfortunately, I can't solve the other two parts at all. So... A couple of disclaimers that we need to insert at the beginning here. You'll all click these terms and conditions right now, folks, by agreeing to sit in the audience. We're going to have a hypothetical today. So it's a story. If you're not familiar with the format, it means your of we're going to explore a whole bunch of issues. Not everything you hear will be true. But not everything you think isn't true won't be true. It might be true. So just be careful. Some things I'm going to say are for the benefit of the story. Don't take them too seriously. But the issues are really, really important. Now, there is one further caution – we are going to talk about death. And death can be a really sad thing. If you find yourself a bit upset by this, we will try and organise a cuddle for you, a good hug, and put you in touch with folks like beyondblue and Lifeline, if you need it. So remember, they're all there. Now, I want to introduce you to Una. Una here is a consumer advocate. She's a wonderful woman, but she's – you know, she's had a bit of difficulty lately, haven't you, Una? What's happened?

UNA LAWRENCE: Yeah, I've had a few serious issues. I've had relationship break-up, I've had some bad news health-wise... A few concerns. You know, the worries of life, I guess. That's all. The worries of life.

NARELLE CLARK: Una, you've gone through a process of getting rid of a lot of stuff, haven't you?

UNA LAWRENCE: Yeah. With my relationship breakdown, I decided that I had to de-clutter my life. You know, I had just – I felt a bit like a hoarder, to be honest. So what I did was I got rid of all my hard copies, I scanned a lot of my family history and quite significant cultural and historic documents that were associated with my family. I scanned them – now I've got them fantastically all stored in the cloud – goodness knows where, but somewhere – and I've been working on an amazing, actually it's really exciting, this manuscript.

NARELLE CLARK: She's a writer.

UNA LAWRENCE: I'm nearly there, but fantastic whistleblower exposés – big corporations, government corruption, international aspects to it...

NARELLE CLARK: Scandal!

UNA LAWRENCE: It's really exciting stuff. I'm really, really pleased about it, actually. That's months off publication, if I can talk the publisher into publishing it.

NARELLE CLARK: You've been receiving a lot of stuff by email, you've got stuff in storage, it's in Google Drive, Dropbox, some other services you're using too...?

UNA LAWRENCE: I've got an amazing music library. I've collected this over the years. Again, I had physical copies, so I've actually spent thousands and thousands of dollars purchasing digital copies, digital recordings, and they're all stored in my iTunes account. I'm really proud of that. It's quite something – quite an asset. I've got heaps of online... Lots of email accounts, a couple of Gmail accounts, then of course I've got the one that's connected to my BigPond account. So, yeah. I feel as if I'm kind of... OK, I'm not a digital native, but I'm feeling like one.

NARELLE CLARK: That's a lot of stuff. That's a lot of stuff. I think you've been doing some share trading and all sorts of things. But let's get back to it. Have you read the terms and conditions, Una?

UNA LAWRENCE: Which terms and conditions do you mean, Narelle?

NARELLE CLARK: Yeah, that one. You said before you'd had some dreadful health news. Now, I'm really sorry to hear about that. It is unfortunately... It's terminal. It's terminal. We're sad to hear that, Una, that you're not very well. Um, so you're going to talk to Helen here. Helen, from the NSW Women's Legal Service – a fabulous lawyer – you're going to act. Una wants you to act for her.

HELEN CAMPBELL: I should preface my remarks by saying this legal advice is worth the paper that it's written on.

(LAUGHTER)

And please note that wills and estates is not an area that Women's Legal Service practices in, so it's creative! Una, I'm so glad you've come to see me because I'm concerned both with your state of health and our need to organise your affairs, but also due to the nature of your relationship breakdown, we may have to take some extra steps to protect you. So, looking at all of your online and digital assets, the first thing we need to do is establish a digital register. I need you to create a list – all your passwords, all your assets, the correct urls for where you're going to be able to find all these different things.

NARELLE CLARK: Wait a second. Una looks horrified.

UNA LAWRENCE: How am I going to do that? This will take me months!

HELEN CAMPBELL: Let's hope it's a slow-moving illness, then!

(LAUGHTER)

You'll need to create that digital register. This is very important for whoever you're going to choose to look after your things after you've gone. It's also – I would also suggest that you take this opportunity to appoint a digital executor. It may be the same as the executor of your will, or it may be a different person that you choose particularly for that kind of expertise.

NARELLE CLARK: A digital executor.

HELEN CAMPBELL: A digital executor and a digital register. Next, I'll recommend that you get an external hard drive – actually, I'm going to suggest you get two external hard drives. Back up everything. Including copying and saving your emails in a text format so that they can be accessed by someone that doesn't necessarily have the same email software as you.

NARELLE CLARK: Make backups. Make backups.

HELEN CAMPBELL: Backups. Your first backup, you're going to put in a safe place in your house. The second one, you're going to give to somebody else that you trust to look after for you. And you're going to password-protect your backup drives. OK?

Um, now the next thing to say is – some things that you think you own, you don't own. You think that when you buy a piece of music or a book from Amazon that you are purchasing that item?

NARELLE CLARK: Keep going, keep going.

HELEN CAMPBELL: Sadly, you're not. You're only getting a licence to use it, and it cannot be transferred to anybody else once you go.

UNA LAWRENCE: But I've spent my hard-earned money on this.

HELEN CAMPBELL: It's in the terms and conditions, Una.

(CROWD GROANS)

There's nothing much I can do about protecting those things. Unless it's music you created yourself. You'd own that.

UNA LAWRENCE: No, I'm not that talented.

HELEN CAMPBELL: But if we can turn now to the things you have been creating yourself – things that you've been writing, your investigative research and so on. All of those things will have copyright protection, whether or not they are published at the moment. There is a limit to your copyright, but it's 70 years, so that will probably do you. And then we can go through looking at what the different service providers will offer you by way of options about preserving or deleting your account. You're going to need to go away and do some thinking. What do you want your Facebook account to look like after you've gone, Una?

UNA LAWRENCE: I've got no idea! I've never thought about this. This is horrifying. How am I going to get time to do it all?

HELEN CAMPBELL: Start now. You can authorise your Facebook page to be taken down, or you can have it memorialised – frozen, so you have an opportunity for your friends to post condolence messages. If you do that, you're going to need to make sure that you put someone in charge of it to protect you from anybody putting horrible messages up. I can't imagine anyone wanting to say anything horrible about you, but the internet's full of weirdoes.

UNA LAWRENCE: There's always the ex.

HELEN CAMPBELL: I was saving that till last.

NARELLE CLARK: The evil ex-partner comes back.

HELEN CAMPBELL: It may well be that a lot of these assets of yours are held jointly, in which case your ex would have access and rights to them. The family jurisdiction has a power to grant injunctions to protect or preserve the property of the marriage pending the resolution of the division of its ownership. However, the Family Court may struggle to identify a value to associate with intangible assets such as online assets. If you can't prove to the court that it's worth money, the court may decline to make any orders about it. In the end, you may have to respond to your separation by doing things like closing down joint accounts and reopening accounts in your name only.

Um, if it happens that your ex-husband does something horrible which reduces the value of your assets, that can be adjusted on your property settlement.

NARELLE CLARK: That's all good news. We think the will's just about right to go now. You think it's pretty good?

HELEN CAMPBELL: The will's great. Don't know about that assets register, though.

NARELLE CLARK: Una, you've sent an email to Helen and said it's pretty well right to go, except for a couple of things, and we should be good to go. Now, look, unfortunately, after attending a really stimulating conference for

a couple of days, Una was exhausted, I think there'd been a few drinks involved, and with the changes to Sydney buses recently that no-one understands, unfortunately Una has made an injudicious road crossing...

(LAUGHTER)

..on Broadway, and I'm very sorry to say she's now in Royal Prince Alfred Hospital on life support. This is very, very tragic news. I'm very sad to hear this. Now, Kevin, you hold Una's health records in your cloud, don't you? This is Kevin Karp from Coherent Cloud, a cloud services provider.

KEVIN KARP: I believe we do. We hold the records. We hold whatever Una chose to put onto our storage.

NARELLE CLARK: I think you've also got her doctor's copies – the doctor's health records on Una as well?

KEVIN KARP: I can't confirm that. I simply don't know. Whatever Una chose to put up there – that may well include... But you can't ask me to tell you what she's put up there.

NARELLE CLARK: OK, but I think you've got a contract in place with the doctors as well, the medical services?

KEVIN KARP: Yes, OK, that's a separate facility, yes. We do have a contract with them.

NARELLE CLARK: We're getting a bit closer now. Not only have we got Una's personal health records that she's put there herself privately, but the doctor's records about Una that are on this.

KEVIN KARP: But those are the doctor's records.

NARELLE CLARK: Are you going to let Una's family to get access? Her daughter is really keen to get access to the genetic testing Una's had done. This illness is a little bit scary for her as well. Are you going to grant access?

KEVIN KARP: To someone with the correct user ID and password...?

NARELLE CLARK: Um, maybe, maybe. She might have the password. I don't know.

UNA LAWRENCE: I never would have given it to her.

(LAUGHTER)

KEVIN KARP: No user ID and password, no access.

NARELLE CLARK: She's asking you now, will you give me those health records?

KEVIN KARP: We can't access the records or the content – all we can do is allow a user ID and password to have access to whatever's been stored there.

NARELLE CLARK: Oh, dear. Oh, dear. Are there some privacy issues here? Are you falling back on that hairy chestnut?

KEVIN KARP: We could fall back on privacy, but we allow access to someone who's authenticated via the user ID and password, and we give the ability for that person to change their password if they want to, but then of course their mobile phone would need to be connected and they'd need to have access to the mobile phone. All we can do is provide access to that authenticated person. If whoever it is – whether it be Una's daughter or even maybe your ex – did you give the user ID and password to the ex? Whoever it is you chose to give it to, or not give it to, then they have access. You may have recorded that information in the digital register that we just talked about creating. Was that documented in your digital register?

UNA LAWRENCE: Maybe. Maybe.

NARELLE CLARK: Hang on. She's not dead yet.

UNA LAWRENCE: Just resurrected.

NARELLE CLARK: No, she's on life support at this stage! Can we get the story straight, people? She's not dead yet!

KEVIN KARP: Maybe the daughter can try and guess the password.

NARELLE CLARK: Good grief. Her daughter wants access to her medical health records. Are you going to hand them over?

KEVIN KARP: Absolutely not. They belong to the doctor. They don't belong to Una. At least as far as I know.

NARELLE CLARK: I seem to recall, Una, did you fill out a form, electronic form, that nominated a next of kin? Was that your daughter?

UNA LAWRENCE: That was probably a while back and it may have been my...ex.

(CROWD GROANS)

NARELLE CLARK: If that person asks you for the medical records, are you going to hand them over?

KEVIN KARP: Probably not, no. No, is the answer.

NARELLE CLARK: OK. Alright.

KEVIN KARP: Whose credit card did you use when you set up the account?

(LAUGHTER)

UNA LAWRENCE: Well, that would have been mine.

KEVIN KARP: That's your credit card?

UNA LAWRENCE: Yeah.

KEVIN KARP: We only keep all this stuff while the credit card's being charged, while we've got someone to bill.

NARELLE CLARK: I'm pretty sure the credit card's still working.

KEVIN KARP: Good, OK.

NARELLE CLARK: The data's probably OK because the credit card's OK. Now, unfortunately, the family have decided that Una is suffering, so they've decided to turn off the life support. There's no power of attorney in place, but the hospital has agreed to turn off life support, so I'm terribly sorry, Una... We love you dearly, but let's move on.

(LAUGHTER)

So, a bunch of things have now started to happen that Una has died. Her share-trading certificates are all in her account. She's got stuff on eBay that's still in open trades. We don't know quite what's going on there. There's goods on eBay up for sale. We've got fresh food arriving on her doorstep every couple of days, was it, Una?

UNA LAWRENCE: It was once a week, but some perishables.

UNA LAWRENCE: There's now a rat problem that the neighbours are a bit upset about. Look, Helen, Una's family have asked you to act and to sue Kevin for access. Not only are we going to sue Kevin, we're going to

sue Google, we're going to sue... Telstra. Any other telcos present? You're all being sued. You're up for it. You're fairly litigious, aren't you, Helen? You're up for it. You're going to sue them. Brendan – Brendan Coady, a wonderful lawyer from Maddocks. You've been asked to act on behalf of Kevin. Can you give him some help here? What can you do?

BRENDAN COADY: Well, I think Kevin, under my advice, will be comply with the -

NARELLE CLARK: Straighten your face, mate.

BRENDAN COADY: Will be complying with his obligations under the terms and conditions that the users have signed, but that's where he'll stop. But that sets out a clear agreement between the user and Kevin's service, and that's what he's required to comply with. He's also got obligations under the Privacy Act not to disclose things without authorisation, so we'll wait and see how that court proceedings progress.

NARELLE CLARK: How are the court proceedings going, Helen? Are you getting anywhere?

HELEN CAMPBELL: I should mention, you might think I'm the same Helen, but as a lawyer, I can't represent both Una's estate and the family, so it's a completely different although seemingly identical Helen.

(LAUGHTER)

NARELLE CLARK: She's another Helen.

HELEN CAMPBELL: Completely different Helen. Sorry, what was the question?

(LAUGHTER)

NARELLE CLARK: How are you going to deal with your learned friend over here, Helen? He's resisting your claims. He is resisting your attempts to get a court order. Are you going to succeed with this?

HELEN CAMPBELL: I reckon I am! I'm pretty good at this stuff, you know! Even better at just intimidating people into agreeing with me! I can do a fair bit of the intimidating approach, because there are jurisdictional problems. Although we're in Australia, many of the entities we want to sue are based outside of Australia, and therefore not subject to Australian regulation except in some limited extent, which is when, as multinationals, they have a token footprint in Australia – a letterbox in Australia.

NARELLE CLARK: You mean they're not really necessarily bound by Australian law?

HELEN CAMPBELL: Yeah, but I'm not going to let him know that.

NARELLE CLARK: OK. OK.

HELEN CAMPBELL: I'm going to pretend I know something special that he doesn't know that will give us an advantage.

NARELLE CLARK: Somehow, Helen has managed to get a court order. Google's refusing to honour it. Brendan, come on...!

BRENDAN COADY: Well, Google obviously, um, my client, Google, ah, is obviously not an Australian entity, and is not necessarily bound by, um, Australian rules, and has its own obligations under its own terms and conditions and agreements, which are governed by foreign jurisdiction. I'm not sure exactly which one.

HELEN CAMPBELL: California, I think.

NARELLE CLARK: Indeed, it's California. So that's... I think you've got some other assets out there too, Una – some of these, um... Anyway. We won't go there. Too soon. There's some sensitive materials in there, I believe. Some interesting photographs. Which are starting to creep out there. But... Brendan, you want to protect the

third parties that are also in Una's drive? People that she's corresponded with? People that she's emailed with? People that have sent her stuff to do with this investigation?

BRENDAN COADY: That's right. There's material that may have, um, sort of privacy implications for, um, a whole range of people. It's also not necessarily the case that the sadly deceased Una would want her family – we don't know that she would want her family to have access to all of the material that she may have stored on our servers – that's not a given. I think all of us might have material that we have in our private digital accounts that we may not necessarily want shared, and particularly other people who've corresponded with us may not want that shared with Una's next of kin or made public more generally.

HELEN CAMPBELL: Well, it's not your call, mate! If Una has completed her will, then she has a designated heir who stands in her shoes for legal purposes, as you know. And it's up to them to decide what they will or will not look at of Una's stuff. If she hasn't actually completed her will, then under the intestacy laws, her next of kin would be her husband if she's separated but not divorced, or her daughter if her divorce has been completed. So we would say, I'm going to say for this discussion it's the daughter, and the daughter is standing in her mother's shoes for all entitlements – everything that Una was entitled to, her daughter is entitled to under the intestacy laws.

BRENDAN COADY: It's interesting, Helen. I once heard a very learned lawyer, also called Helen...

(LAUGHTER)

..mention that, in fact, many of your digital – what you regard as your digital assets are not, in fact, assets at all, but only a limited set of rights that you might have – a licence which is personal to you and not transferrable to your next of kin or to anyone else.

HELEN CAMPBELL: I'm not pressing for the iTunes files.

(LAUGHTER)

KEVIN KARP: But Helen, you've just put a request in to me to have access to the metadata. We are now obliged to retain metadata, all the logs of what Una has done. I'm appealing now to Brendan to help me out with who owns the metadata.

NARELLE CLARK: The question – the data about the data, the great big log files that say every time Una logged in and did something – every time her phone connected across and synchronised the files...

BRENDAN COADY: Ah, yes, I think that, um, we would... Our position would be that that certainly is not something that the next of kin, or the estate, has an entitlement to. It's not an asset in that sense. That follows with the estate. It's data that the ISP is required to maintain, but not data that belongs to the estate of the affected individual.

NARELLE CLARK: OK. So we're not really sure what stuff Una owns. We're not sure about where it is. We're not sure about which laws govern it. But we are sure that she's clicked "agree" to all the terms and conditions. Well,

UNA LAWRENCE: What about my library? My E-book library?

NARELLE CLARK: Look, I'm sure we'll find out about that soon.

Fortunately, or unfortunately, Una has set up Google's Inactive Account Manager feature, and all of her Google-based material has now been transferred to WikiLeaks.

(LAUGHTER)

Things are certainly getting interesting now, aren't they? The court actions are going on. There's press involved. Do we have any members of the press here still today? Well, you're tweeting like crazy. Your articles are going

up everywhere. The followers – her Twitter account has just exploded with numbers. Well, why would Una's Twitter account explode with numbers? Because an avatar has been released that is tweeting just like Una used to tweet in her voice. It looks just like Una. It sounds just like Una. But honestly, Una's dead. She's not tweeting. Are you tweeting, Una?

UNA LAWRENCE: No tweets from me.

NARELLE CLARK: But her avatar is going mad. With all of this controversy, her followers are just increasing. She had – what was it, 45 at last count? Now she's up to the tens of thousands. 20,000. 30,000. 50,000 Twitter followers. The avatar isn't perfect. And it's actually starting to tweet a little bit inappropriately. Look, I'll leave it to your imagination as to what it's saying and what it's doing. Reputations are at risk, let's put it that way. Reputations are at risk. Is there anything that the lawyers want to do about this? Reputations are at risk here.

HELEN CAMPBELL: I could advise Una's daughter to contact Twitter and supply – I think Twitter will require a copy of the death certificate and can request that that Twitter account be closed.

NARELLE CLARK: Right. Brendan?

BRENDAN COADY: Yes, we've considered that request in accordance with our policy. We've given it due consideration. But the account is very popular and going really well.

(LAUGHTER)

After giving it a lot of thought, we've decided not to take that account down.

NARELLE CLARK: So the Twitter account's still going yet the family want it shut down because the account is basically making them far too much money. Every tweet is worth megabucks. We're talking serious money here.

HELEN CAMPBELL: I'm going back to the Family Court now. I'm going to ask the Family Court to make an order to suspend that Twitter account and preserve it using an injunction, because it's actually now got a dollar value – now that it's got 50,000 followers, you know how much we can sell the advertising on that account for? This is great! Finally I've got something I can convince the Family Court we have an asset and we can monetise it. This will invoke Family Court injunctive protection.

NARELLE CLARK: Fantastic. Another Federal Court involved. There are different state courts involved. Apparently we die differently in every state in Australia.

HELEN CAMPBELL: True.

NARELLE CLARK: The laws of death are state-based legislation.

HELEN CAMPBELL: I've also got things running in several states about circulation of the intimate photographs without consent. That law's different in every state too. As well as having a federal law.

NARELLE CLARK: We've got state law, we've got federal law, we've got laws about death, we've got laws about sensitive materials. I think there's the federal communications law involved. And we've got cross-jurisdictional intercountry laws involved. Good grief. And this is just somebody who's died who lives in the one state in the one country. Oh, my God ness. So, everything's just gone berserk. This is a mess. And the people want something done. We need government to set in here, don't we? Julia Cornwell McKean, you're a regulator.

JULIA CORNWELL McKEAN: For the Children's eSafety Commission, yes.

NARELLE CLARK: There are children involved here, trust me. There are children involved. Julia, as a regulator, what do you think we can do about this mess?

JULIA CORNWELL McKEAN: So, with Una's Twitter account – because we're friends – I might just swing you over to my mate over at Twitter, because she's pretty cool. She's going to ask for your proof of death, and she'll

take the account down. But it might be worth noting she didn't ask for proof of life when you opened it to begin with.

(LAUGHTER)

Now...there's some sexual images. What can we do about that? Normally, being good government, we provide people advice with what to do about those images, but that advice won't do Una much good anymore. Again, I might swing you over to my mate over at Twitter, or maybe even my mate over at Google, but no promises there about that. And as you say, the state laws are all different, so I don't know if that'll work for you. In terms of the advice that Helen's already given, that's pretty much the advice we in the government would have given too. I must say, this opens a can of worms for us at eSafety. We say that e-safety is from the nursery to the nursing home. We hadn't thought about it being beyond the grave.

(LAUGHTER)

NARELLE CLARK: So this is new regulatory territory we're in?

JULIA CORNWELL McKEAN: It's new regulatory territory, at least for us at the Children's eSafety Commission.

(LAUGHTER)

NARELLE CLARK: Some governments around the world have actually started to legislate on this, haven't they?

JULIA CORNWELL McKEAN: Yes, as I understand it. But I'm not a lawyer, I'm a musicologist, so I won't speak to that one. What I will say, though, is that when Una signed up for all those terms and conditions, and among those terms and conditions certain commitments were made, as to who the transfer of ownership could be made to, and those commitments have not been lived up to, then maybe that's a trade issue, and maybe you could speak to the state trade offices or even the ACCC.

NARELLE CLARK: Have we still got the ACCC or NSW Fair Trading Commission, even the Victorian one present? That would be fantastic. Great!

JULIA CORNWELL McKEAN: But of course, as I say, we would stick with the advice side of things, and then we would say, "Even if you did have that digital register, by the way, do you have all the accounts you set up, like the 50 YouTube accounts the kids are setting up and forgetting the email register?"

HELEN CAMPBELL: On behalf of Una's estate, I might be making a claim to the ACCC that certain of those terms and conditions that she is purported to have signed up to should be set aside as being unfairly oppressive.

(LAUGHTER)

..impossible to understand. And possibly even difficult to access. One of those threshold issues where you know the way it says "The terms and conditions for this product are inside the box – by opening the box, you agree to the terms and conditions?" You know what? You can't actually do that.

NARELLE CLARK: OK... So, I think we've gone through a lot of these difficulties. I think the family have now got to the point where they're just over it all. They've had it. It's about time Una was buried. We're going to have a funeral for Una. This is wonderful. We want to remember her really for the saint we all thought she was.

(LAUGHTER)

Michael, from the University of Melbourne, tell us about this funeral. What happens?

MICHAEL ARNOLD: Well, it was a lovely funeral, and there were hundreds of people there. But Una, having been part of a global village and having friends from all over the world, – she wasn't working, she was dead, but those who were at the funeral were aware that many could not be there, and they decided to stream the funeral.

Now, as it happens, the funeral chapel had its own camera right at the back of the room in order that it be livestreamed, and they also agreed – as most funeral directors did – to record that and make it available on a DVD. That's helpful. But there's a couple of problems with that. One of the problems is that the cameras that you'll see that are fixed in the back of funeral chapels and in many churches too nowadays only capture the proceedings at the front. They don't capture the people – the mourners, those who are actually attending the funeral. Now, funerals are social occasions, among many other things, for some people. They're religious occasions and so on, but for many, they're social occasions. People want to see who's there. And who's not there. "Oh, look, there's Aunt Mary, she's looking good." "Fred might be at the back..." There only being a camera at the back, there were a lot of people attending the funeral who decided to take things into their own hands and stream it via their smartphones. As the proceedings are going, people are giving the tributes and the eulogies, et cetera. There are those who are running around with smartphones capturing the proceedings.

NARELLE CLARK: I think there was a robot, wasn't there, as well?

MICHAEL ARNOLD: That's the other thing, you see. It's all very well to have cameras at the back and to have people running around with smartphones. That's not interactive. Una's friends in London, her friends in California, et cetera – they can watch what's going on, but they can't participate in what's going on. But happily, the funeral director that's organised Una's funeral had access to a service called KARL. With KARL, what you do is you rent a motorised robot with a screen – imagine a screen at the head at the neck, the neck is extendible so that the robot's head – which is the screen – can lower and raise depending on whether communication is with someone sitting or standing, it's Skype-enabled, and what happened was that Una's friends in London and California hired this robot and they drive it from London, they drive it from California, their faces are visible on the screen to those who are present at the funeral, and there are microphones, of course, and speakers, which enable them to talk with those who are there. Of course, it was a very sad occasion when it came to the coffin. There was an open coffin and they had the last viewing of Una via the Skype robot.

NARELLE CLARK: Yes. So there were some issues, too, with the readings, weren't there, Michael? What happened there? And the music – what happened?

MICHAEL ARNOLD: Well, as you'd gather, the funeral directors here are very progressive. They've moved beyond the funeral which has a multimedia show which is basically just a PowerPoint on a loop running against a portable screen. This is a fully equipped chapel which has a professional high-resolution digital projector with a professional screen there, and Una's family got together and they had a professionally produced biographical movie of Una's life. A 15-minute movie. Now, people loved it. The music was evocative. The camerawork was terrific.

NARELLE CLARK: The music was evocative before it showed. Because her iTunes account's gone.

MICHAEL ARNOLD: Well, yeah, that may be so...

NARELLE CLARK: There's no music at all at this funeral, Michael. Nothing is playing at all. So that lovely, comforting music we wanted to hear is gone.

MICHAEL ARNOLD: The...the funeral chapel does pay royalties to the owners of the music, just as gymnasiums do and just as other places do.

NARELLE CLARK: Pandora.

MICHAEL ARNOLD: The difficulty was, though, after this biographical movie, the main tribute was to be given by Una's favourite uncle, Fred. Now, Uncle Fred is unaccustomed to public speaking. Uncle Fred is grieving and upset. And here he is – he has to compete with this professionally produced, cinemagraphic spectacle. And of course, he can't compete. Una's family is thinking, "Have we lost the human touch in this? Is this still a family affair, a community affair? Or have we turned it over to a media affair?"

NARELLE CLARK: Yes, and then there were the selfies...

MICHAEL ARNOLD: Well, yes, there were quite a number of young people there, of course. And there was a lot of trouble.

NARELLE CLARK: Selfies at funerals.

MICHAEL ARNOLD: There was a lot of trouble. People – the younger ones – couldn't help but to take selfies at Una's funeral. They didn't use selfie sticks – they weren't as gross as that – they did take selfies, though. There were those who were upset and very critical about this. "This is profane. This is sacrilege. This should not be happening at a funeral." "Hey, hang on," the young people say. "This is a communicative act here. What we're doing is we are bringing the funeral to our social network, and we're bringing our social network to the funeral. This is what selfies do. This is what it is to be a young person communicating with a social network today."

NARELLE CLARK: So, as you can understand, a number of the people at the funeral were left, well, still unhappy. Still sad. And still dissatisfied with the normal course of their grief that you get resolved, at least in part, at a funeral. So they've decided to hold another funeral online.

MICHAEL ARNOLD: Yeah.

NARELLE CLARK: Una, it turns out, was a pretty big – well, Second Life player in her day. They want to have a funeral online. They were going to go to Second Life, but nobody else wanted to go. They've decided now to have it, I think, on World of Warcraft – Una, what a woman! Tell us about this funeral.

MICHAEL ARNOLD: Second Life was a bit naff, but Una, you were a big World of Warcraft player.

UNA LAWRENCE: Too right. I was a champion.

MICHAEL ARNOLD: You were. You were a Guild president.

NARELLE CLARK: I've heard the value of her Sword of Truth and Beauty 212 is actually worth something. I know Helen's interested in that. Michael, tell us more about the funeral in World of Warcraft.

MICHAEL ARNOLD: She has World of Warcraft friends in the Guild who've known her for years, been communicating with her for years, who care deeply about her, who feel as if they've got a relationship with her. But of course, they're scattered all over the world. Some of them didn't even find out about the death until some time later. So what they figure is, "OK, we've got to do something in the environment, in the social and communal environment in which we knew Una best." And that, of course, is World of Warcraft. Now, they approached Blizzard, the owners of World of Warcraft, and asked to put up a monument to Una. What about a non-playing character to give consumer advice to people on World of Warcraft?

NARELLE CLARK: That'll put the Sword of Truth and Beauty to use, won't it?

MICHAEL ARNOLD: Blizzard responded and said, "Forget it. We get thousands and thousands of these requests every day from World of Warcraft players. We're not gonna do it. We've done it for some of our own developers and so on but, no. Can't do it." They figure, "Alright. We'll have a funeral anyway. We won't have a monument, but we'll have a funeral." So they spread the word.

NARELLE CLARK: Word is out.

MICHAEL ARNOLD: At such-and-such a time and place, on World of Warcraft, all those who knew and loved their leader...

NARELLE CLARK: The Hill of Glory and Magnificence...

MICHAEL ARNOLD: ..will pay last respects to Una. And so, hundreds of Una's friends arrived. They all had their avatars had their best cloaks on and they had their best spells and what have you. Speeches were made. They formed an orderly line to pay last respects, because Una's avatar was there, again, dressed up as best...

NARELLE CLARK: This avatar is not obscene, let me tell you. This avatar is beautiful. A lovely cloak. Beautiful furs. Magnificently dressed. As are all her friends in the rest of the Guild. They are dressed in their best gear. Then what happens, Michael?

MICHAEL ARNOLD: It is a solemn occasion. A very solemn occasion. And then, down from the hills swoop one of the opposing clans – Serenity Now.

NARELLE CLARK: Serenity Now.

MICHAEL ARNOLD: Serenity Now, the bitter enemies of Una's guilt, and slaughter everybody. All the mourners are killed and all their possessions are stolen. Una's sword is stolen. All of the magic spells are stolen. Everything else is stolen.

NARELLE CLARK: I'm shocked. I'm sure Helen's going to want to sue again.

(LAUGHTER)

I'm sure Brendan's going to have to want to act on their behalf. I don't know what's going to happen here. Let's just skip past that. There'll be more legal advice from somebody else somewhere else.

HELEN CAMPBELL: Negligence!

NARELLE CLARK: Negligence. They've had this funeral in a place where war happens. It's called World of Warcraft.

MICHAEL ARNOLD: Yeah, I know, but you see... Una's mourners said, "What you've done here, Serenity Now, is terrible. This is a real person who has really died, and we really love her, and we really came here to mourn her. We really came here to have a funeral." And to bring in the World of Warcraft ethos to this solemn occasion is absolutely wrong." But of course, what Serenity Now said is, "Come off the grass! This is World of Warcraft. World of Warcraft exists to slaughter each other! How dare you have what you claim to be a solemn occasion in this environment. It's just not the right thing to do."

NARELLE CLARK: Well, it wasn't my idea.

MICHAEL ARNOLD: It wasn't your idea, no.

HELEN CAMPBELL: The operators of World of Warcraft ought to have known that this risk would arise, because Una's friends had made the request to have the memorial.

NARELLE CLARK: Yeah, but that landed in the spam box.

MICHAEL ARNOLD:

(LAUGHS)

Look, these funerals and events do occur on World of Warcraft and on fairly regular occasions. Some of them are respected, others are confronted by Serenity Now.

NARELLE CLARK: Or other Guilds. Other Guilds are available. OK. I think, once again, her friends and family are left somewhat soothed and somewhat distressed. How about we just put up a notice on LastPost.com.au or OnlineMemorials.com.au? Let's make a special website for Una. I think there are costs involved with that, aren't there? Oh, my God ness... How different is it to having a monument online to having a monument in the town square? A statue?

MICHAEL ARNOLD: With some of them, there are expenses involved and contracts involved and so forth. With others, as we've alluded to before, such as Facebook, Una's Facebook account can simply be kept open and kept going and people can continue to post to it. Interestingly, far more people do that than decide to

memorialise the Facebook account. We could use Heaven Address or one of the many other dedicated memorial sites. There, the problem is not so much paying for it and that kind of stuff and initiating the site. The problem is the emotional labour that's required to maintain that site. And there's a lot of that. Whilst Heaven Address and other places have got software which will pick up on gross trolling – the algorithms will search for swear words and what have you, you can black-ban certain people from posting and the algorithms will do that – there is still a requirement for ongoing emotional labour to maintain an interactive memorial site. So in Una's case, for example, there was a lovely post to her memorial site. Nothing untoward about it at all, except Una's family realised, after some days, that the person who made the post was the person who'd whacked into her on the street in Sydney and, in fact, put her in hospital.

NARELLE CLARK: Oh, dear...

MICHAEL ARNOLD: Of course, no algorithm – it would be an extremely sophisticated algorithm that would pick up that kind of stuff – posts from Una's ex-boyfriends...

NARELLE CLARK: Hang on, Michael. That person could have just as easily snuck in up the back of the physical funeral and signed the guest book anyway. There's no real difference between the online and offline experiences there. I think we can... Is it?

MICHAEL ARNOLD: There is a difference in so much as the condolence book is from the extended family and community to those who are specifically grieving, to the immediate family who are mourning. Heaven Address or Facebook or one of the alternatives is a social site. It's an open site. It's not closed and it's not just directed at the inner circle. Also, of course, it remains – generally speaking – open and interactive for days and for years.

NARELLE CLARK: OK. We need to set up some guidelines and some controls and rules and boundaries and make sure that we can keep a lot of this under control. I think I've got the hang of it from you now, Michael. So, after all this, I think we might just remember Una for who she was and how she was and let her have a couple of moments to reflect on this. Helen, have you got any last advice for how we could have avoided this dreadful mess?

HELEN CAMPBELL: We should have finished Una's will, obviously, and got the digital register sorted out and the digital executor appointed. I'm still not confident – even if I had all that set up dash that I would have been able to get to the health records, though. And again, it's that – supposing Una had her health records on paper in a draw in her house – there's no doubt that the executor could get their hands on it. There's no mechanism I know of that could protect those health records from being looked at by the executor, next of kin, or the person due to inherit the estate.

NARELLE CLARK: Kevin, any thoughts on how to avoid this mess?

KEVIN KARP: We're happy as long as the credit card is being honoured.

(LAUGHTER)

NARELLE CLARK: Brendan, have you got any last thoughts on this?

BRENDAN COADY: Some of the issues can be avoided by taking advantage of things like the Google Inactive Account Notification where you actually can grant access to third parties once your account becomes inactive. As you mentioned, there is some law reform in the US – there's been legislation passed in certain states to actually treat those digital assets more like the assets that are in your draw or physical assets.

NARELLE CLARK: Brendan's referring to the state states of Delaware and Virginia in the US, which grants access to the parents of minors with the materials that the minors held. Go on, please, Brendan.

BRENDAN COADY: There is still some resistance to that legislative approach as well.

UNA LAWRENCE: Oh, yes, particularly in California – they're real keen on it. Julia, what's your thoughts?

JULIA CORNWELL McKEAN: There's two key things I'd say. Firstly, buyer beware – if you're buying something, whether it be on iTunes or wherever, make sure you know what you're buying and that it's for you and nobody else once you're gone. So it's stiff, basically.

NARELLE CLARK: Stiff?

JULIA CORNWELL McKEAN: Stiff.

(LAUGHTER)

And the second thing is the digital register. I'm going to put my e-safety hat on – keep track of all your accounts. Just because you forgot the password, don't start another one and another one and another one, 'cause it will just become unsurmountable at the time that you need it when it hits you. So, control your accounts and keep that digital register, but I can't tell you how to keep it safe and up to date. Sorry. That's another one for somebody else.

NARELLE CLARK: Michael, any last thoughts on the last will and testament and last rites?

MICHAEL ARNOLD: When we're thinking of technologies like Skype robots at funerals, selfies at funerals, online memorials and in-game memorials, et cetera, we're driven to think, "Is this a good thing or a bad thing for commemoration and memorialisation and so on?" I'd suggest that these technologies are neither good nor bad, but what they do is alter what good and bad is. What a good funeral and a bad funeral is. How a person should and should not be memorialised. These things are changing in the face of technologies, just as the rest of life is changing in the face... Just as the yardstick by which we make judgements in other places in life are also changing as a consequence of technologies.

NARELLE CLARK: So, indeed, we're creating new norms. Now, we do need to give Una the last word here. Una, please – how do you feel about all this? Is this what you expected to have happened? How could you have avoided it?

UNA LAWRENCE: Well, I guess I could have read the T & Cs a bit more carefully. I acknowledge that. But they are so boring, and I never have time. I didn't have time, so in a way, maybe it's OK. The mess is left to others!

(LAUGHTER)

NARELLE CLARK: We really do love Una. She's such a saint. I don't know if I've got a minute left to see if there's any other issues anybody wanted to throw into this – it needs to be short, sharp and pithy, mate. Quickly. Can you do it?

>> I think so. Una left a bioengineering contract in her will, so it's only a short-term problem – she'll be back.

(LAUGHTER)

NARELLE CLARK: Not just the Twitter avatar – we'll get the Twitter robot with the cyborgs. The cyborgs are coming! I think that's a wrap. Thanks, everybody.

(APPLAUSE)

TERESA CORBIN: Thanks to the panel. That was fascinating. I'm sure that will give people plenty to think about to make their digital registers before they leave today. Before we finish, I just want to thank all the sponsors – Telstra, Telstra, Google, the NRS, Vodafone, Optus, amaysim, AusRegistry, auDA, Macquarie Telecom, the ACMA, Maddocks Lawyers, Media Access Australia, Ericsson Broadcast and Media Services. Thank you very much to those sponsors. Without them, this event wouldn't go ahead.

(APPLAUSE)

Thanks also to the awesome ACCAN staff who've worked tirelessly to make this our seamless event-filled, but event-less, event. Thank you to all the staff. They're still busy packing up and doing things in the background now. Let's give them a round of applause.

(APPLAUSE)

Now you will receive an email, 'cause you always do, after you go to an event, so you can tell us your feedback later on – both positives and negatives, things that we could improve on next time. Please do give us your feedback.

And of course, the most important thing of the day – who's gonna get the tablets? So, the last lucky door prize...

F47? I know we're going to go through several, aren't we? Has everybody looked?

Alright. Next one. F-99!

(APPLAUSE)

Congratulations.

And we have F-86. No-one's got that one...

Next one – F-91. This is...

F-97! Yay! Very good. Congratulations.

Now, safe travelling, everybody, and we'll be convening back here after afternoon tea, ACCAN members, for the Annual General Meeting. Otherwise, thank you very, very much for coming along.

(APPLAUSE)

(End of session.)