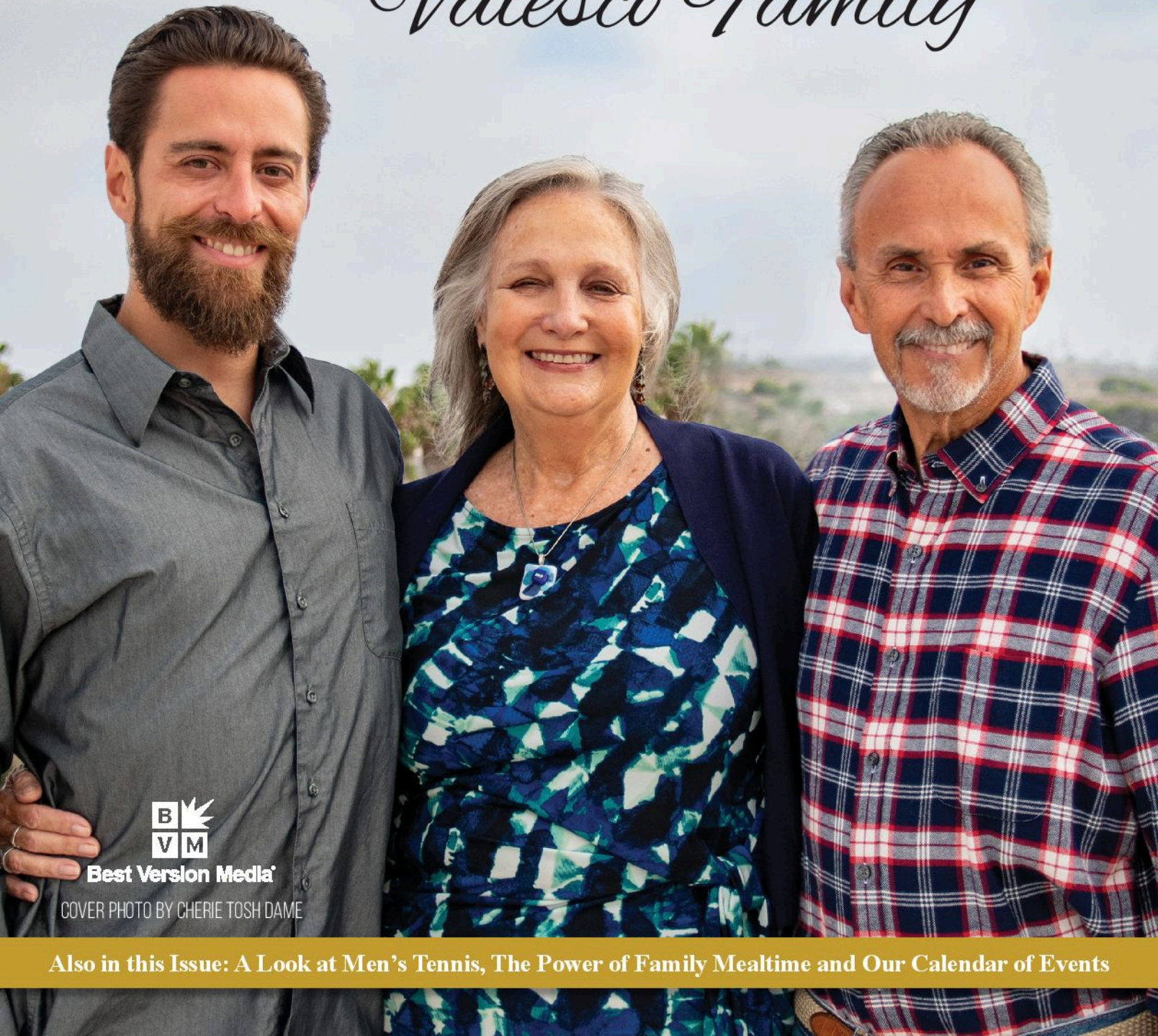


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Also in this Issue: A Look at Men's Tennis, The Power of Family Mealtime and Our Calendar of Events



# Probate, Trusts, Wills...Oh, My!

BY AMY NELSON FRELINGER



**A**s we wrap up this year, the LAST thing you may want is a to-do item to kick off the New Year. So, please forgive me in advance for suggesting the preposterous notion that NOW is the time to finally get your estate in order!

Maybe you are YOUNG and feel there is NO reason to do this right now. Would you be surprised to know that estate planners have said that their younger clients may have MORE to lose without a trust in place?

Maybe you are OLD and feel your survivors will handle whatever is going to happen and since you won't be around why worry about it?

Maybe you are in the MIDDLE of LIFE juggling work, family, generations older and younger than you are (the "sandwich" generation phase) and adding one more item to your busy life would absolutely overwhelm you.



Lately, I have encountered all 3 situations with clients who have NOT had their "affairs in order". Chaos, conflict and costs have been the outcomes in these cases. The pain has been difficult to watch for the clients who have inherited these situations.

So, I write in hopes of being an inspiration to save you time, money and heartache that IS avoidable. Here are some of the essentials:

1. **A WILL** can be insufficient in these days of complex estate rules and regulations.
2. **A LIVING TRUST** has multiple functions. A trust will guide your wishes to be acted upon in cases of incapacity, though none of us wants to believe that is a possibility. Conservatorship situations can be avoided. Complexities can be resolved much more effectively when your desires are clearly stated in a trust document.
3. **A POA** (Power of Attorney) is imperative. If you created your living trust in the 1980s or 1990s, POAs were NOT commonly included. Nowadays, they are instrumental for your designee to literally have the power to execute your wishes.
4. **PROBATE** is the court supervised process of determining who receives your assets when there is no WILL or LIVING TRUST in place. Probate costs additional time and money since paid professional judges, attorneys and court personnel must develop the plan to distribute any assets that survive you. A "very fast" probate can typically take about 9 months; a "very difficult" probate case can take 18-24 months to complete. Beyond the time, are the often-surprising costs associated with the court designees delineating how your assets should be allocated. Does THAT sound ideal?

The costs comparison:

- A Living Trust can cost a few hundred dollars if you use online documents.
- A Living Trust can cost a few thousand dollars if you use an estate attorney correlated to the time and counsel required.
- Probate can cost tens of thousands of dollars. The costs of probate are based upon the total value of the assets in your estate.

**The Process:** A Living Trust requires you to compile the records of all of your assets, decide who you want as your successor trustee and to whom and how you want your assets distributed to which beneficiaries upon your death. It also then requires you to formalize those wishes in writing.

**The Warning:** Often the Living Trust documents you will find online can be insufficient or inadequate for your own personal situation. A Trust is only as good as what is in it. If you fail to construct it completely, any missing pieces CAN be subject to probate court administration.

**The Timing:** There are certain "triggers" that can present opportune times to review your Living Trust once you have created it. These include when you buy or sell real estate, have an addition to the family through marriage, birth or adoption and when there has been a death of a family member.

**My Advice:** Invest in a professional estate planning attorney to guide you through this process. Be confident that attorney is current on the latest rules and regulations. Often a small piece of skilled advice can save you major amounts of money, aggravation and wasted time.

*My special thanks to Christopher Blatter for his insights contributed to this article. Chris is a Los Angeles-based attorney specializing in Wills, Trusts and Estate Planning services. Chris can be reached at (424) 832.1141.*

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