

The Pop Culture CELA: “WandaVision”

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Comic book movies are an ever-present force in modern entertainment. Studios use them as tent-poles, the viewing public flocks to see them, and Martin Scorsese hates them. While all of this has become par for the course, I never anticipated an Elder Law/Estate Planning concept to be name-dropped in one of these properties... that is until I watched Disney’s hit, Emmy-Nominated mini-series WandaVision.

The series explores the fallout Wanda Maximoff/The Scarlet Witch (powerfully portrayed by Elizabeth Olsen) endures following the loss of her sentient automaton husband The Vision (played by the enduringly talented Paul Bettany). The concepts of grief, family, and the interplay of futuristic science and magic are examined through a pastiche of classic sitcoms. The story ends up playing out like a long-form episode of The Twilight Zone to great effect. Marvel/Disney showed growth and willingness to poke around the stranger corners of their respective intellectual properties. Couple this bold direction with an extremely strong cast, big-screen quality visuals, and plenty of cameos/easter eggs for the comic-nerd set and you have a recipe for an absolutely classic story.

What does a show featuring Superheroes, Witches, Shadowy Government Entities, and Classic Sitcoms have to do with Elder Law, you ask? Well, it has everything to do with exploring an individual’s right to self determination with respect to medical treatment of course! Around mid-way through the series, it is revealed that S.W.O.R.D. (the aforementioned shadowy entity) preserved The Vision’s inert body with the intention of resurrecting him for further service in the protection of mankind. This may seem like the natural thing to do in a universe that frequently sees powerful galactic foes threaten Earth on an almost weekly basis, but The Vision made it clear in his Living Will that he was not to be rebooted in the event of his untimely demise. This inserts a very grounded legal concept into an otherwise wild science fiction romp.

A Living Will, as defined by Black’s Law Dictionary, is “an instrument ... by which a person directs that his or her life not be artificially prolonged by extraordinary measures when there is no reasonable expectation of recovery from extreme physical or mental disability.” In English, this is a document an individual can use to direct how their end-of-life medical treatment should be handled.

Living Wills, along with Healthcare Powers of Attorney, Do Not Resuscitate Orders, and Pennsylvania Orders for Life Sustaining Treatment (the “POLST”) are a family of documents designed to concretely effectuate an individual’s right to choice with respect to their medical care. They represent the balance of the interests of “The Individual” (Vision in this case) and “The State” (S.W.O.R.D. in the immediate case). This legal tug-of-war is represented by a long line of blockbuster cases which precipitated into a group of legal documents every individual should have in place.

In the case of WandaVision, The Vision's Living Will is intentionally violated and he is brought back to life via artificial means. This act brings to question whether The Vision had capacity to execute a Living Will in the first place due to him being an artificial intelligence and not a human as well as whether the State's interest in rejuvenating an asset to protect its citizens outweighed The Vision's right to self-determination. This is the kind of stuff an Elder Law Attorney thinks about while watching Superheroes punch each other on tv...

While these analyses are purely hypothetical and examining an outlandish situation, they do a great job in communicating how important these documents can be to us regular, workaday humans. Without a Living Will, an individual has no way of communicating how they prefer their health care to be managed in dire or end-of-life circumstances. Further, this decision-making will then ultimately fall on the individual's loved ones, or worse yet, the State. Without a Living Will, the most personal decisions an individual can make will be made by others, without input by the individual, and absent context. In short, every individual should have a Living Will to avoid the situation The Vision endured.

In summation, Wandavision is a stunning display of the versatile stories Marvel can tell through its various Heroes. In the course of its run-time, the series managed to touch on Living Wills which brought to the fore how crucial it is to have the document in place. To most effectively employ one of these documents, it is important to make sure you employ an experienced attorney to do the work.