

Fifth Circuit Affirms QDRO Issued After Participant's Death

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A recent decision from the U.S. Court of Appeals for the Fifth Circuit highlights that a qualified domestic relations order (QDRO) can be valid and enforceable even if it is issued after a participant's death. In *Miletello v. RMR Mechanical, Inc.*, the Fifth Circuit affirmed an award to the former spouse of a deceased 401(k) plan participant, even though (i) the QDRO in favor of the former spouse was not entered into until over a year after the participant's death, and (ii) the participant was married to a new spouse at the time of his death. Importantly, a divorce settlement executed by the former spouse and the decedent before his death explicitly provided for the award from the 401(k) plan and contemplated that the former spouse would obtain a QDRO to receive the 401(k) plan assets. A copy of the Fifth Circuit's opinion is available [here](#).