Fifth Circuit Rules that Plan Administrators Must Accept QDROs Even if Suspected to be Based on a Sham Divorce

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The Fifth Circuit ruled that a retirement plan administrator may not refuse to treat a domestic relations order (DRO) as a qualified domestic relations order (QDRO) under ERISA on the basis that the administrator believes the DRO was not obtained in good faith from the court that issued it.?Ã¡ In this case, Continental Airlines?Ã¡alleged that?Ã¡several pilots and their spouses obtained ?ÃÂ£sham?ÃÂ¥ divorces for purposes of obtaining lump sum pension distributions from the Continental Pilots Retirement Plan, which they otherwise could not have received without the pilots separating from service.?Ã¡ In?Ã¡rejecting Continental's claim for restitution, the Fifth Circuit held that the plan administrator may only review DROs based on whether the statutory criteria were met and not on any other criteria, such as whether the divorce was obtained in good faith. ?Ã¡In light of this decision, plan administrators?Ã¡should review their QDRO procedures to ensure that only the statutory criteria are considered in determining the qualified status of a DRO.?Ã¡ *Brown v. Continental Airlines, Inc.*, No. 10-20015 (5thCir. July 18, 2011).