

Money (It's What Everyone Wants)

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PRACTICES Employee Benefits and Executive Compensation

As an old song covered by the Beatles goes, “the best things in life are free, but you can’t keep em for the birds and bees, now give me money, that’s what I want.”

Turns out, it’s what almost everyone wants, and as result, it is not uncommon for beneficiary disputes to arise when a participant in a qualified retirement plan dies. In almost all cases when beneficiary disputes arise, the participant is no longer around to ensure that his or her wishes are carried out. Furthermore, a participant’s failure to understand the plan’s beneficiary designation requirements, particularly following life events such as marriage or divorce, can lead to family conflicts and litigation which often involves the deceased participant’s retirement plan.

Recently, the Fifth Circuit Court of Appeals affirmed the lower court’s dismissal of a breach of fiduciary duty claim against a 401(k) plan’s retirement committee finding that the plan accurately disclosed its policy that marriage voids a participant’s prior beneficiary designation unless a spousal waiver is executed. As a result, the participant’s second spouse, who survived him, received his entire plan benefit which amounted to approximately \$3 million dollars, and his four children, whom he’d named as his beneficiaries four years prior to his second marriage, received nothing. The court found that the children were not entitled to any benefit, because the participant’s second spouse did not sign the required spousal waiver. See *LeBeuf v Entergy Corp.*, 2025 U.S. App. Lexis 10571 (available <https://www.ca5.uscourts.gov/opinions/unpub/24/24-30583.0.pdf>)

The plan document, beneficiary designation form, and summary plan description in the case all included provisions specifying that if a participant is married when he or she dies, the plan benefit will be paid to the participant’s surviving spouse, unless the surviving spouse has properly consented to the participant naming another beneficiary. Despite these clear provisions, after the participant remarried, he received quarterly benefit statements showing his four children as beneficiaries. These quarterly statements did not include any language indicating that marriage would nullify a beneficiary designation absent a spousal waiver, so it would have been reasonable for the participant to believe that his four children specified as beneficiaries on the account statements, not his second spouse, would receive his plan benefit after he died. Notwithstanding the language in the quarterly statements, the court found that the beneficiary provisions in the plan, the beneficiary designation form, and the summary plan description were sufficient to disclose the effect of marriage on the participant’s prior beneficiary designation.

Beneficiary disputes are not uncommon, but the following “best practices” may help plan fiduciaries avoid disputes and ensure that the administration of beneficiary designations runs as smoothly as possible:

- Ensuring the plan includes provisions clearly specifying beneficiary designation requirements, including spousal consent requirements, and the effect that marriage and divorce have on prior beneficiary designations, and also contains default beneficiary provisions that take effect in the event that no beneficiary designation is on file or a beneficiary designation ceases to be valid;

- Ensuring that the summary plan description's beneficiary provisions are consistent with the plan and detail the requirements for beneficiary designations, spousal waivers, and the effect that marriage and divorce have on prior beneficiary designations;
- Reviewing all other plan communications, such as participant account statements, to ensure that they accurately describe the plan's beneficiary requirements and are not inconsistent with the terms of the plan;
- Reviewing beneficiary designation forms to ensure that they (i) explain the effect of a marriage or divorce on the beneficiary designation and (ii) explicitly state that a new beneficiary designation revokes all prior designations;
- Periodically reviewing the plan's beneficiary designation forms for basic accuracy, making sure they are completely filled out and legible, and reaching out to participants who have not designated beneficiaries or who have not designated both primary and contingent beneficiaries;
- Sending targeted participant communications describing the plan's beneficiary designation provisions, any spousal consent requirements, and the impact marriage and divorce will have on beneficiary designations;
- Advising participants to review and update their beneficiary designations at least annually;
- Advising participants to notify the benefits department and/or the plan's third-party administrator of a marriage or divorce and ensuring that the benefits department and third-party administrator knows the plan's beneficiary requirements and can accurately convey them to participants who reach out; and
- Advising participants to seek professional guidance with their personal financial advisor, tax professional or attorney to ensure that their beneficiary designations align with their financial goals, and applicable legal requirements.