

Posthumous Abandonment Order is Ineffective as Spousal Waiver

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An unmarried participant in a defined benefit plan designated his sister as beneficiary under the plan. When he later married, his spouse automatically became his beneficiary under the plan by operation of law, even though he did not change his beneficiary designation. When the participant died, his sister claimed that his spouse had abandoned him within the meaning of local law. The sister asserted that the abandonment terminated the requirement that the participant obtain spousal consent to designate a beneficiary other than his wife. The district court denied her claim, and held that for abandonment to waive a spouse's rights under ERISA, the participant must have a court order to such effect, and the order must be obtained solely by the participant prior to his death. A posthumous court order of abandonment obtained is ineffective under ERISA. *Thomas v. Community Renewal Team Inc.*, No. 3:10-cv-01022-JCH (D. Conn. Mar. 24, 2011).