

State Court Order to Turn Over ERISA Plan Benefits Not Preempted by ERISA

March 15, 2013

A participant in two employer-sponsored ERISA plans divorced her husband. In the marital settlement agreement, her husband waived his interest and future rights in the plans. The participant neglected to update the plans' beneficiary designation forms. They still designated her ex-husband as beneficiary when she died. The plan administrators for each plan initially determined that her benefit under the plans should be paid to the ex-husband. The participant's parents, as administrators of her estate, appealed the decisions. After the claims appeal process, the ex-husband filed for declaratory relief in federal district court, which stayed its decision pending the outcome of the estate's state court suit. The state court found the ex-husband in contempt of the marital settlement agreement and ordered him to waive his interest in the benefits. The federal district court then ordered the plan administrators to pay the funds to the ex-husband and the ex-husband to then waive his right to those funds pursuant to the state court order. On appeal, the U.S. Court of Appeals for the Fourth Circuit affirmed the district court opinion. It found that under the U.S. Supreme Court decision in *Kennedy v. Plan Administrator for DuPont Savings and Investment Plan*, 555 U.S. 285 (2009), the plan administrator must distribute benefits to the designated beneficiary. However, once the benefits are distributed, *Kennedy* and ERISA preemption no longer apply because plan administration is no longer implicated. *Andochick v. Byrd*, No. 12-1728 (4th Cir. Mar. 4, 2013).