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4th Circuit Enforces Waiver of Beneficiary Rights in Domestic Relations Orders

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May 21, 2013 — A properly named beneficiary of an ERISA-covered plan may waive his or her right to receive the plan benefit under state domestic relations law, and those waivers can be enforced without interfering with ERISA plan administration, the U.S. 4th Circuit Court of Appeals recently ruled. The decision is similar to that in a case from the U.S. District Court from the Western District of Michigan which we profiled in last quarter's column but has a broader impact, since it was handed down by a federal circuit court.

ERISA-covered employee benefit plans must pay death benefits to a participant's beneficiary who has been properly named under the procedures the plan document outlined, regardless of any state-law claim that the beneficiary had waived his or her right to receive the benefit. This point was made abundantly clear by the U.S. Supreme Court in *Kennedy v. Plan Administrator for DuPont Savings & Investment Plan*, 555 U.S. 285 (2009). The Supreme Court left open the question, however, of whether a plan beneficiary's waiver of his or her right to retain the benefit once it has been distributed from the plan may be enforced against that beneficiary. This was the issue presented to the 4th Circuit in *Andochick v. Byrd*, 709 F.3d 296 (4th Cir. 2013).

Background of the Case

Scott Andochick and Erica Byrd were husband and wife. Erica earned a benefit under her employer's 401(k) and life insurance plans. Erica filed separate beneficiary designations with each of the plans, both naming Scott as the beneficiary. Subsequently, Scott and Erica divorced, and the final divorce judgment incorporated their marital settlement agreement. The agreement provided that Scott waived all interest in Erica's 401(k) account, death benefit and the life insurance death benefit. The agreement further provided that Scott agreed to complete any documentation required to comply with the agreement. Erica then died before she had filed any new beneficiary designations for the survivor benefits with the 401(k) or life insurance plans.

Both administrators of the plans separately determined that the survivor benefits under each of the plans must be paid to Scott, because he was the properly designated beneficiary under the terms of the plan. This determination was consistent with the Supreme Court's decision in *Kennedy*. Erica's parents, the Byrds, as the administrators of her estate, appealed the administrators' decisions. The administrator of the 401(k) plan affirmed its decision, but the life insurance plan administrator could not reach a decision and stated it intended to file an interpleader action, which would deposit the benefit with a court and have the court determine who was the rightful recipient.

Scott refused the Byrds' request to sign waivers of the benefits under the terms of the final divorce judgment. Instead, Scott filed an action in the U.S. district court in Virginia seeking a declaration that the waiver provisions in the final divorce judgment were preempted by ERISA and, therefore, unenforceable against him. In response, the Byrds filed an action across the Potomac River in

Maryland state court to enforce the waivers in the final divorce judgment. The Maryland court found Scott in contempt of the final divorce judgment, and ordered him to relinquish any interest in Erica's plan benefits.

The Byrds returned to federal court in Virginia — which had stayed its proceedings until the Maryland court action was resolved — seeking to dismiss Scott's declaratory judgment action. The district court agreed with the Byrds and directed the plan administrators to pay the benefits to Scott. At the same time, the court required Scott to waive his claim to these benefits and distribute them to Erica's estate according to the state court's order. Scott appealed this decision to the 4th Circuit.

The 4th Circuit agreed with the district court that the Supreme Court's *Kennedy* decision required the plan administrators to pay the benefits to Scott, because Scott was the only beneficiary properly named according to the terms of the ERISA-covered plans. But that was not the end of the analysis of whether Scott could keep the benefit.

The 4th Circuit noted that the *Kennedy* decision was based on three important ERISA objectives:

1. simple plan administration;
2. avoiding double liability for plan administrators; and
3. ensuring that plan beneficiaries receive their benefit quickly, without the nonsensical administrative dealings caused by vague rules.

None of these ERISA preemption concerns would be infringed, the appellate court found, by allowing post-distribution actions to enforce a state-law waiver.

In particular, the 4th Circuit found that enforcement of the waiver does not prevent the ERISA beneficiary from quickly receiving the benefit; it merely prevents him from keeping what he quickly received. The court cited a case with nearly identical facts from the 3rd Circuit, *Estate of Kensinger v. URL Pharma, Inc.*, 674 F.3d 131 (3d Cir. 2012), in which the court stated that "the goal of ensuring that beneficiaries 'get what's coming quickly' refers to the expeditious distribution of funds *from plan administrators*, not to some sort of rule providing continued shelter from contractual liability to beneficiaries who have *already received* plan proceeds."

The 4th Circuit also cited several other state law decisions that had reached similar results. As a result, the 4th Circuit held that ERISA does not preempt post-distribution suits against ERISA beneficiaries, and affirmed the district court order requiring Scott to turn over the benefits to Erica's estate.

Plan sponsors and administrators should find comfort in the *Andochick* decision because federal courts are maintaining the clear obligations of plans to pay benefits according to the terms of their ERISA-covered plan. The courts also are willing to back plan administrators' determinations, and will resolve the claims of competing beneficiaries. But it remains crystal clear that plan administrators must pay benefits according to the terms of the written plan document and participants' beneficiary designations properly completed in line with those terms.

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