

An Important but Often Overlooked Follow-Up After a Death or Divorce



ARTICLE 12.15.16 DEAN DORTON

Most assets of which we are the sole owner pass at death according to the terms of our will and beneficiary designations of retirement plans and life insurance.

In a real example from a dispute that went all the way to the U.S. Supreme Court, a daughter had an “unpleasant” outcome when her father passed way. Her father’s ex-wife was awarded \$400,000 from his retirement plan even though she had waived any interest in the plan in the divorce and property settlement agreement.

What happened? The father failed to update his beneficiary designation form to name his daughter as beneficiary. When he died seven years after the divorce, his former wife was still named as the beneficiary upon his death. The employer’s plan document stated that beneficiaries could only be changed by submitting the required form. The Court held that the administrator of an ERISA-covered benefit plan need only look to the governing plan documents to determine the proper plan beneficiary.

This case reminds us of some very important points:

- Do not rely on documents such as a divorce decree, property settlement agreement, or a will to name beneficiaries of life insurance policies, retirement plans, 529 college savings plans, and annuities. Determine the currently named beneficiary for all such assets and, if you want the designation to be changed, obtain the proper forms to change your beneficiary designation and complete and properly submit the forms. Keep copies of the completed forms with your will and other testamentary documents.
- Divorce is not the only situation where failing to update your beneficiaries can cause problems for intended heirs. You may want certain benefits to go to specific children. Their financial or medical situations may have changed. Remind yourself to do an annual “check-up” to review beneficiaries. This should include primary and contingent beneficiaries. It is important to include a secondary beneficiary in case the primary beneficiary predeceases you.

Please contact Missy DeArk at mdeark@deandortonstg.wpenginepowered.com if you have questions about this important topic.