



# NewsWire

An AAU Washington Report

Wednesday, 30 September 2015

WRN# 15.09.30

The WRNewsWire is created exclusively for AAU Members by insurance experts led by **Steve Leimberg, Lawrence Brody and Linas Sudzius**. WRNewsWire #15.09.30 was written by **Tom Commito of Lincoln Financial Distributors**.

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**TOPIC: District Court Finds ERISA Overrides State Law on How Divorce Affects an Ex-Spouse as a Policy Beneficiary**

**CITES:** [Bostic v. Bostic](#), 2015 WL 5178163, Civil Action No. 6:14-2130-BHH (USDC Greenville Div. Sept. 3, 2015); [Kennedy v. Dupont](#), 555 US 285 (2009), [Egelhoff v. Egelhoff ex rel. Breiner](#), 532 U.S. 141, 121 S.Ct. 1322, 149 L.Ed.2d 264 (2001); [S.C.Code. § 62-2-507](#).

**SUMMARY:** ERISA provides that a plan shall “specify the basis on which payments are made to and from the plan,” and that the fiduciary shall administer the plan “in accordance with the documents and instruments governing the plan.” ERISA further mandates that payments shall be made to a “beneficiary” who is “designated by a participant, or by the terms of [the] plan.”

In interpreting this language, the federal courts have taken the position that divorce does not affect a beneficiary designation where the ex-spouse is the beneficiary. This principle was enunciated by the Supreme Court in *Egelhoff v. Egelhoff ex rel. Breiner*, 532 U.S. 141, 121 S.Ct. 1322, 149 L.Ed.2d 264 (2001) and reiterated in *Kennedy v. Dupont*, 555 US 285 (2009). Group-term life plans are deemed to be ERISA welfare benefit plans, pursuant to ERISA Section 1002(1).

However, state laws in at least 30 states provide that a divorce revokes a policy beneficiary designation, where the ex-spouse is the named beneficiary. South Carolina, which was the situs of the present case, has such an ex-spouse revocation statute (S.C.Code. § 62-2-507).

The present case involves a dispute between an ex-spouse who was the named policy beneficiary, and a second spouse who was married to the insured at the time of his death. Both claimed the death proceeds. Here, the United States District Court in South Carolina decided that ERISA overrides state law, and in ERISA cases, divorce does not eliminate the ex-spouse as a policy beneficiary. Accordingly, the ex-spouse named beneficiary was entitled to the death proceeds.

**RELEVANCE:** This case reminds us yet again that a constant review of beneficiary designations is critically important – and is especially so for both parties in divorce situations.

*WRNewswire* has reviewed a number of cases with similar fact patterns. See for example issues 14.01.31, 14.06.16 and 14.03.26.

Typically, these cases involve a spouse who is named a policy beneficiary. Next, a divorce occurs, and the insured or policy owner does not change the now ex-spouse as the beneficiary. The insured then dies, and the estate of the insured then contends that the policy proceeds should go to the estate, rather than the named ex-spouse beneficiary.

In general, if these cases are governed by Federal laws, such as ERISA or the Federal Employees Group Life Insurance Act, the ex-spouse beneficiary is entitled to the proceeds. (ERISA applies since group-term life insurance plans are deemed to be welfare benefit plans.) If federal law does not apply, then state law does. A majority, but not all states provide for revocation of the spouse as a beneficiary in the event of divorce. In those states that do not have automatic revocation, some will look to a divorce agreement, and if the agreement provides for revocation, the court will follow the agreement.

If litigation occurs, the outcome is unpredictable. To avoid all of this, when a divorce occurs, the beneficiary designations of all policies on both spouses should be immediately reviewed and changed (or updated if the covered employee intends for the ex-spouse to remain as the beneficiary). As an even broader principle, all beneficiary designations should be reviewed periodically.

**FACTS:** The Prudential Insurance Company of America issued a group-term contract to WalMart Stores, Inc. The contract was part of an employee group-term death benefit plan. Scott O'Neal Bostic, a WalMart employee, was provided with life insurance coverage in the amount of \$22,000.00.

The plaintiff was the wife of Scott Bostic at the time of his death and the sole beneficiary of his intestate estate. The defendant was Scott Bostic's ex-wife and the named beneficiary of his group-term life policy. All of the parties were South Carolina residents. Prudential was not a party, since it deposited with the court the insurance benefits at issue in the amount of \$23,264.89, including interest.

The suit was originally instituted in state court, but was later removed to United States District Court because of the Federal ERISA issue. After the pleadings were filed, the ex-spouse moved for a judgment on the pleadings. The sole issue was whether ERISA pre-empted the South Carolina statute. If the South Carolina statute (S.C. Code Section 62-2-507) was preempted, then the ex-spouse defendant was the rightful beneficiary. If it was not, the new spouse plaintiff should receive the insurance proceeds.

This relevant part of the South Carolina statute reads as follows:

(2) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives a payment, item of property, or any other benefit to which that person is not entitled under this section is obligated to return that payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit,

to the person who would have been entitled to it were this section or part of this section not preempted.

The statute, recognizing its own likely encroachment into Federal predominance, attempted an end run around preemption by making the ERISA designated beneficiary personally liable to the individual that would have claimed the benefit had 62–2–507(c)(1) not been preempted.

The court analyzed the statute as follows:

...the Court safely concludes that Section 62–2–507(h)(2) undermines a core purpose of ERISA’s preemption scheme. In enacting the preemption provisions, Congress wanted “ ‘to ensure that plans and plan sponsors would be subject to a uniform body of benefit law; the goal was to minimize the administrative and financial burden of complying with conflicting directives among States or between States and the Federal Government.’ ” ... Such a preemption-circumventing provision in South Carolina will produce a very different result in jurisdictions that have no such statutory safety valve. “One of the principal goals of ERISA is to enable employers to establish a uniform administrative scheme, which provides a set of standard procedures to guide processing of claims and disbursement of benefits. Uniformity is impossible, however, if plans are subject to different legal obligations in different States.

Thus, the court concluded that ERISA rules superseded state law, and that under ERISA the ex-spouse was the proper beneficiary.

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