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# Second Spouse Receives About \$3 Million in 401(k) Dispute, Surviving Adult Children Receive \$0

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On May 1, 2025, the U.S. Court of Appeals for the Fifth Circuit affirmed the dismissal of a breach of fiduciary duty claim against Entergy Corporation's Employee Benefits Committee (the "Committee") finding that the Committee "accurately disclosed the policy that marriage voids a plan member's prior designation unless a spousal waiver is executed." Because the plan sponsor did not receive a spousal waiver from the second spouse prior to the participant's death, the Committee acted properly when it paid about \$3 million dollars from the participant's 401(k) account to the second spouse instead of to his adult children as noted on his last beneficiary form. LeBoeuf v. Entergy Corp., No. 24-30583, 2025 U.S. App. LEXIS 10571 (5th Cir. May 1, 2025).

From 1967 – 2003, Alvin Martinez worked for Entergy Corporation as an electrical engineer. He participated in the company's 401(k) plan. In 2002, his first wife died. In 2010, he named his four children as beneficiaries under the 401(k) plan by submitting a beneficiary form. The beneficiary form notified him that, if he remarried after submitting the form, his beneficiary designation would be revoked unless he updated the form after remarriage. More specifically, the form provided.

"If you are married your entire vested account in the plan will be paid to your surviving spouse after you die, unless you designate someone else as your primary beneficiary and your spouse consents, by completing the Consent of Spouse section of this form. Your spouse's signature must be notarized. If you become married or marry a different person after you sign this form, be sure to update this form because a later marriage will automatically revoke your prior designation."

Four years after submitting the beneficiary form, Alvin remarried. Both before and after his second marriage, he received quarterly statements from the plan trustee about his investments in the plan and which continued to list his adult children as the beneficiaries without any reference that "marriage nullifies a prior designation absent a spousal waiver." In 2021, Alvin Martinez died. While he was alive, his second spouse never executed

a spousal waiver in favor of Alvin's adult children. As a result, the plan correctly paid the second spouse about \$3 million.

Although the adult children claimed that the company, plan committee, and trustee breached their fiduciary duty "to not misrepresent plan provisions" by continuing to list his adult children as beneficiaries on the quarterly plan statements after allegedly knowing he remarried in 2014, the court found that the breach of fiduciary claim failed as a matter of law because Alvin Martinez received an accurate representation of the beneficiary requirements related to spouses in the plan document, beneficiary designation form, and at least nine summary plan descriptions that he received which disclosed the effect of marriage on a participant's prior designation form. Martinez also had "a duty to inform himself of [the] plan provisions," and the committee is not responsible for his misunderstanding of the plan terms, as he did not inquire about them.

The facts of this case are common. Regardless of company size, all companies should require their employees to review their 401(k) beneficiary designations at least annually and whenever an employee discloses a life event change to the company such as marriage, divorce, death. If you have any questions regarding beneficiary designations, please contact any member of the Employment, Labor and Benefits Practice Group.

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