

Who Is Your Beneficiary?

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ROBIN M.
LYNCH NARDONE

is a Partner in the Firm's Divorce & Family Law and Private Client Groups.

It is standard practice for most divorce practitioners to notify their clients to update their estate plans and change the beneficiaries of life insurance policies and retirement accounts following a divorce - and for good reason. While it is often thought that a divorce terminates beneficiary designations to a former spouse, a recent decision from the US Supreme Court is a reminder that this is not necessarily the case.

The US Supreme Court recently issued a decision in [Kennedy v. Plan Administrator for DuPont Savings and Investment Plan](#), holding that a wife's waiver of her interest in her husband's retirement plan through DuPont contained in the parties' divorce agreement was not sufficient to bind the plan administrator, who was obligated to distribute the funds to the former spouse pursuant to the beneficiary designation. The

husband had designated his wife as beneficiary of his ERISA qualified retirement plan at the time of their marriage. When they divorced, the wife waived her interest in the retirement plan, which was retained by the husband in the division of property in the divorce. Yet after the divorce, the husband failed to revoke or alter the designation of his former wife as beneficiary of his retirement plan. Absent revocation or designation of a new beneficiary, under ERISA (federal law that sets standards for most private pension plans and other retirement accounts) a Qualified Domestic Relations Order, and not simply a judgment of divorce, is necessary for a former spouse's interest to be waived. There was no QDRO in the Kennedy case and thus, because she was still listed as the beneficiary, Mr. Kennedy's former spouse was entitled to receive the benefits, despite the divorce.

It is always good practice to review your estate plan at regular intervals, including who is listed as beneficiary of your life insurance and retirement plans. It is particularly important to do so whenever there is a major event in your life, including a birth, death, marriage, or divorce. Failure to do so may result in benefits passing to an unintended recipient.

MASSACHUSETTS DIVORCE LAW MONITOR BLOG

Burns & Levinson LLP is proud to announce that Nancy R. Van Tine has started a Massachusetts Divorce Law blog. Nancy is Chair of the Firm's Divorce & Family Law Group and Co-Chair of the Firm's Private Client Group. Please visit the following web address to view and comment on Ms. Van Tine's blog:

www.massachusettsdivorcelawmonitor.com

THE DIVORCE & FAMILY LAW GROUP

Burns & Levinson's Divorce & Family Law Group understands that our client's immediate future requires practical legal guidance and knowledgeable negotiation concerning substantive rights, obligations and entitlements. We approach every matter with strength and skill: *strength* that supports aggressively taking issues to trial; *skill* to negotiate, settle and forge the right decisions. We are also one of the only Boston-based law firms with a comprehensive private client group which includes a marital and family law practice and boasts a highly esteemed full-service business practice. In all these ways and more, Burns & Levinson attorneys provide *effective personal legal counsel and caring individual support* during the most tumultuous and stressful periods of life.

For questions regarding this Family Law Update, please contact Robin M. Lynch Nardone at 617.345.3265 / rlnardone@burnslev.com.