

How To Prevent An Ex-Spouse Spouse From “Cashing In” On The Life Insurance Benefits

3 Tips On How To Avoid or Minimize Fights Over Life Insurance Benefits

My Whole Life Has Changed . . . My Husband’s Ex-Wife Stole His Life Insurance Money From Me! By Ann Slaughter

Unfortunately, you have probably seen this tragic episode at least once or maybe twice. After a life changing event, such as a divorce, remembering to change the beneficiary designation on a life insurance policy is easy to forget. This could also be a very devastating event for the loved ones left behind.

Most people are usually preoccupied and distracted by all of the distress caused by such an event, that this critical task may never make it on a “To Do” list. If it does, it can easily be tagged as a low priority task. This is a costly mistake.

Let’s face it. Dying is not a topic most of us think about everyday. In fact, some people completely avoid conversations pertaining to death. So planning for this **and** remembering to update beneficiary information is certainly not given much thought.

So What Happens When You Die And Have Not Taken Care Of The Basics – Updating Beneficiaries On A Life Insurance Policy?

A newlywed officer, who remarried only a month before he was killed in the line of duty, failed to remove his **EX**-wife as beneficiary on his insurance policies. The insurance company initiated legal action to determine which of the spouses was entitled to the \$500,000 in benefits.

Unfortunately, the 9th Circuit court ruled in favor of the ex-wife. Her argument was that the language in the actual divorce judgment, with her deceased ex-husband, was too vague. It was not specific enough to strip her of her expectancy interest in the insurance benefits.

The divorce judgment awarded all rights, title and interest in any and all of the officer’s pension benefits. This included his retirement/pension, 457(b) plans and 401(k) plans. The key element here is that the judgment **also** included a pre-printed notice stating that it did not automatically cancel either spouse’s rights as a beneficiary of a life insurance policy. It is important to read the fine print and be aware of any exclusions or exceptions.

In general, whoever is named as the beneficiary at the time of death will receive the insurance proceeds. Prior to the officer’s death, his attorney advised him to change this information. He definitely **intended** to do this. However, it **never got done**. This could happen to anyone.

It Does Not Seem Fair, But It Is The Law

Per the court, under California law, a property settlement covering all property and releasing all claims may include language for a life insurance expectancy interest, but when the language is not broad enough to cover this expectancy, the wife, if named the beneficiary, still has the right to claim the insurance benefits.

Even though a person could interpret the particular provision regarding pension benefits to also cover life insurance policies, it was not clear that the this provision also included the status of the beneficiary. In addition to this, the pre-printed notice in the divorce judgment even offered the steps required to change the life insurance policies.

Don't Wait, Don't Hesitate. Don't procrastinate. Just Execute.

These items, along with other evidence pertaining the officer's state of mind at the time of the divorce, support the conclusion that the divorce judgment did not eliminate his ex-wife's right to claim the life insurance benefits. The law also states that just because one intends to change a beneficiary designation; it is not valid unless it actually **gets done**.

Lessons Learned

These days, we are all living "over-stuffed" lives driven by a "To Do" list a mile long. Here are a few tips or friendly reminders you can share with your clients.

Tip #1

It is wise to maintain some type of "Life Changes" Checklist. There are many Divorce Checklists available for free on the net. Unfortunately, with the divorce rate being as high as it is, one does need to be aware of negative events that can occur as a result of a divorce or death of a spouse.

Tip #2

Think about what would happen if you died today?

Changing beneficiaries on life insurance policies should be at the top of the checklist and taken very seriously.

In addition to updating life insurance policies, encourage your clients to review other assets during this same time. They should assess their entire financial situation. **This may include items like:**

- Income of each spouse
- Expenses of each spouse
- Assets of the spouses (joint and separate)
- Liabilities of each spouse
- Employee benefits each spouse is entitled to
- Life, health, and disability insurance policies owned by each spouse
- checking accounts, interest in a company and other investment accounts

Tip #3

Encourage your clients to be proactive and to act with a sense of urgency when changes occur.