



# ED SLOTT'S IRA ADVISOR

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## TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

### 401(k) Beneficiary Form is Trumped by Remarriage; Disinheriting Children

#### *The Plan Beneficiary Form was Trumped*

(Cajun Industries, LLC vs. Robert Kidder, et al. United States District Court; Middle District of Louisiana, No. 09-267-BAJ-SCR – April 26, 2011)

Normally we say that the beneficiary form trumps all, and that's usually the case. But now, in a new case, the beneficiary form was trumped...by ERISA rules.

In a recent case, the U.S. District Court for the Middle District of Louisiana ruled that despite having previously named his three children as beneficiaries of his 401(k) plan, a deceased plan participant's 401(k) balance would pass to his new wife. The Court determined that under the terms of the participant's plan, a spouse's right to plan assets is immediately vested upon marriage, and since no spousal waiver had been obtained, the default plan beneficiary was the participant's spouse, even though she was not the

named beneficiary. The spouse got the 401(k) after only six weeks of marriage, and the children, who were the intended beneficiaries, were disinherited. The fatal flaw was not obtaining a spousal waiver after getting remarried.

#### *Facts of the Case*

Leonard Kidder was a former employee of Cajun Industries, LLC and was a participant in the company's 401(k) plan. Kidder had originally named his wife, Betty Kidder, as the sole beneficiary of his plan, but after her death, Kidder updated his plan's beneficiary form, naming his three children as the new beneficiaries. So far, Kidder was making all the right moves. That was exactly what should have been done if he wanted his children to be the plan's beneficiaries.

**In a new case, the beneficiary form was trumped...by ERISA rules.**

In late 2008 (after naming his three children as the beneficiaries of his 401(k) plan) Kidder married Beth Bennet Kidder. Just six weeks after the marriage though, Leonard Kidder died. During

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#### *Guest IRA Expert*

**Christian Cordoba,**  
CFS, RFC  
California Retirement Advisors  
El Segundo/Manhattan Beach, CA

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