

Accidentally Disinherited

Strange Things Can Happen If You're Not Careful

By Kevin Bourke

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When Kari Kennedy's father died, no doubt she was crushed emotionally.

When Kari found out that her dad's ex-wife Liv, from whom he had been divorced for many years, inherited over \$400,000, the entire balance of her dad's retirement plan, she must have been speechless. Particularly when Kari had a copy of the divorce decree, signed by Liv, stating that Liv waived all rights to the plan.



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Kari must have been even more bewildered when the U.S. Supreme Court, on January 26, 2009, [upheld the decision](#) to let Liv keep the money.

Sound impossible?

Beneficiary planning seems so simple. When you begin a life insurance policy, retirement plan, IRA, annuity, or other account that requires a beneficiary, you simply state who you want to inherit your assets should you die. Easy. Unfortunately, this arena is loaded with landmines and pitfalls. As Kari's case well illustrates.

Do you believe that Mr. Kennedy deliberately set out to disinherit his daughter? I don't. Kari's dad made a very simple, very common mistake. He failed to change the beneficiary form on his retirement plan. He got busy and he promised himself he would do it "tomorrow." Who knows why he didn't do it; he probably just forgot. But according to ERISA, the law that governs qualified retirement plans, the plan document trumps the divorce decree. So Liv received a windfall, and his daughter Kari received nothing from the retirement plan. Even though Kari could prove, with both her dad's and Liv's signatures, that Liv and her father intended that Liv not get the money.

I see this sort of outcome frequently. Well-meaning individuals are not willing to spend the money to hire an estate-planning attorney, or they don't follow up on the advice given by their financial planner to change their beneficiary forms, or they intend to follow through and just forget. The results can be disastrous.

Sometimes, they've done everything they were supposed to do, and it still doesn't work out right. How can that be? What if a retirement plan participant mails in a change of beneficiary form, or an insurance policyholder mails in an updated beneficiary form, but the receiving entity never receives it? Or what if the form is never properly processed? What happens then? It's not enough that the deceased intended to leave their money to this or that person or entity, the beneficiary form must state explicitly what their wishes are. The documents win out. You bear the responsibility to ensure that the documents are current.

At least once per year I recommend that everyone carefully review every asset they own. Each retirement plan, IRA, annuity, insurance policy, title to real estate, will, trust, and legal document needs to be reviewed regularly to ensure that it conforms to your current wishes.

Why? Because life happens; people die, spouses divorce, children are born, friendships fade, businesses are sold or disappear completely, the list is endless. Divorce is not the only time we need to review our beneficiary documents and title documents. With each change, our estate plan--designating the individuals or entities we wish to inherit our belongings or assets--changes.

Don't put this off. Your family's financial well-being may be at risk.

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