



ED SLOTT'S IRA ADVISOR

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TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

Man Dies with Two Wives – But Only One Can Be the Surviving Spouse

IBEW Pacific Coast Pension Fund v Lee (2012, CA6), February 13, 2012

A man walks into a bar...

Actually, a man died with two wives and one pension plan. The second wife is named as the beneficiary on the plan beneficiary form. Who gets the money?

Answer: The Court says the first wife gets the money – if she can prove that she is still legally married to him. They never got a divorce.

Facts of the Case

Wayne Lee was a member of the International Brotherhood of Electrical Workers (IBEW) and contributed to their Pension Fund (an ERISA plan – Employee Retirement Income Security Act). Wayne married Cleta in the state of Washington in February 1979.

Around 1992 or 1993 Wayne moved to Mississippi without Cleta to find a job. He found a job, and also found Lois, and married her in 1995. Wayne retired in

1997 and applied for his benefits from the Pension Fund. He identified himself as married and named Lois as his spouse. He made certain pension payment elections and attached his Mississippi marriage certificate “memorializing” his marriage to Lois. On the beneficiary form Wayne listed Lois as the beneficiary of “any benefits which may be payable from the IBEW Pacific Coast Pension Fund as the result of [his] death.”

Wayne died in 2007 and now the fun begins...

He died in January 2007 and Lois began receiving her monthly benefits on February 1st (presumably on the way to the funeral - the body was not cold yet).

Somehow (28 years later) the first wife – Cleta (remember her?) appears and applies for survivor benefits from the Pension Fund later in February 2007, attaching her 1979 marriage certificate and stating that she and Wayne had never divorced.

Now the Pension Fund doesn't know what to do, so they file an interpleader

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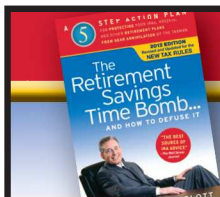
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