

## SEVENTH CIRCUIT HOLDS THAT ERISA DOES NOT PREEMPT STATE “SLAYER STATUTE”

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We turn once again to the sad and difficult task that plan administrators face when distributing the benefits of a participant who has been murdered by his or her designated beneficiary. Sad for obvious reasons. Difficult because ERISA and state law may provide different answers. ERISA directs a plan to honor a participant’s beneficiary designation—meaning that the murderer would receive the benefit. “Slayer statutes” prohibit the murderer from receiving a financial benefit from his or her victim, requiring the plan to disregard the beneficiary designation.

Our prior blog post suggested three strategies that a plan administrator might employ in the face of uncertainty: interpleader, receipt and refunding agreement, and affidavit of status. Under the interpleader approach, the plan administrator would pay the benefit into the registry of the court and join each potential claimant as a party defendant. Each claimant would then argue for receipt of the benefit, and the court would award the benefit and issue a judgment upon which the plan administrator may rely for protection against the losing claimants. This certainty comes at the cost and effort required by litigation in federal court.

A recent Seventh Circuit case involves just this approach. In *Laborers’ Pension Fund v. Miscevice*, No. 17-2022, the participant was killed by his wife. At the state criminal court proceeding, the court determined that the wife intended to kill her husband without legal justification but also that she was insane at the time and therefore not guilty of first degree murder. The plan administrator filed an interpleader action in district court seeking an order on the disposition of the benefits. The wife argued that she was the designated beneficiary under the pension plan and that ERISA preempted the Illinois slayer statute. The estate argued that ERISA did not preempt the Illinois slayer statute, that the statute precluded distribution to the slayer-spouse and that the couple’s minor child should receive the pension benefits of the deceased participant. The district court awarded benefits to the estate.

The Seventh Circuit affirmed, holding that ERISA did not preempt the slayer statute. The Court reasoned that when the state statute governs an area of traditional state regulation, the party seeking preemption must overcome the starting presumption that Congress does not intend to supplant state law. The Court characterized the slayer statute as part of family law and thus an

area of law traditionally left to the states and long-predating ERISA. The Court also noted that ERISA's interest in uniformity was not a concern because slayer statutes were largely uniform in denying benefits to the killer. The Seventh Circuit noted that the Supreme Court had not addressed the issue but had commented in *Egelhoff v. Egelhoff*, 532 U.S. 141, 152 (2001) (holding that ERISA preempted a Washington divorce law invalidating earlier beneficiary designations to a former spouse upon the dissolution of a marriage) that "because the [slayer] statutes are more or less uniform nationwide, their interference with the aims of ERISA is at least debatable." This comment placed slayer statutes in contrast to the divorce law at issue in *Egelhoff*. Having concluded that ERISA did not preempt state law, the Court analyzed the Illinois statute and concluded, as a matter of state law, that the wife's insanity did not overcome the statute's denial of benefits to a person who intentionally and unjustifiably caused the death because the wife intended to kill her husband due to an insane belief that he would harm her and her child.

*Laborers' Pension Fund* not only illustrates the successful use of an interpleader action to resolve the dilemma faced by a plan administrator but also adds to the growing body of federal case law holding that ERISA does not preempt state slayer statutes. While the Supreme Court has declined to resolve this preemption issue at least twice, district court opinions appear to be converging on an answer and the Seventh Circuit adds the weight of circuit precedent to this emerging consensus.

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