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INSURANCE LAW BULLETIN

Re: State Court Divorce Decree Is Preempted By ERISA

The United States District Court for the Eastern District of New York recently ruled that ERISA preempted a divorce decree because it did not satisfy ERISA's requirements for a Qualified Domestic Relations Order ("QDRO").

The former spouse of an ERISA plan participant filed an action in New York State court alleging she was a plan beneficiary pursuant to a divorce decree and seeking a court order requiring the insurer to recognize her as the beneficiary. The insurer removed the action to federal court based on ERISA preemption and moved to dismiss. The insurer argued the former spouse was not the designated plan beneficiary and the divorce decree was not a QDRO because it did not refer to the participant's ERISA plan. The former spouse moved to remand arguing ERISA was inapplicable because the divorce decree was a QDRO.

The Court denied the motion to remand, ruling the determination of whether the divorce decree is a QDRO is a federal question. The Court further determined the divorce decree was not a QDRO because it did not refer to the ERISA plan. Finally, the Court dismissed the claims against the insurer because the designation in the ERISA plan preempted the designation in the divorce decree.

For further information or a copy of the Court's opinion, please contact **Michael P. Cunningham** or **Hisham M. Amin**, who represented the insurer in this matter. Mr. Cunningham can be reached at 410.659.4979 or mcunninghan@fbblaw.com. Mr. Amin can be reached at 410.659.4980 or hamin@fbblaw.com.

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