

A close-up photograph of a person's hands and torso. The person is wearing a white dress shirt and a blue tie with a wavy pattern and small gold-colored buttons. They are holding a black fountain pen with a gold-colored nib over a white document. The document has some faint, illegible text on it. The background is slightly blurred.

# HOW TO AVOID COSTLY BENEFICIARY DESIGNATION LITIGATION HELPFUL HINTS FOR ALL BENEFIT PLANS

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# How to Avoid Costly Beneficiary Designation Litigation – Helpful Hints for All Benefit Plans

Posted by [Katherine I. Aizawa](#) – April 10, 2017

When administering an employee benefits plan, it is critically important to provide clear and specific instructions as to how a participant can designate a beneficiary. A recent federal district court opinion in Florida demonstrates the potential pitfalls that plan administrators may face with respect to disputes over beneficiary status and provides guidance as to how administrators may avoid costly disputes.

That case, *Ruiz v. Publix Super Markets, Inc.* centered around the beneficiary designations made by the now-deceased Iraeth Rizo, a long-time employee of the Publix supermarket chain.

During her employment, Ms. Rizo participated in the company's employee stock ownership plan (ESOP) and 401(k) plan. Both plans' summary plan descriptions (SPD) provided very specific instructions as to how a participant designates a beneficiary:

It is important to remember to change your beneficiary designation when the situation calls for it. . . . If you wish to change your beneficiary(ies), please obtain a Beneficiary Designation Card from your work location's Publix Communication Center and complete, sign and submit it to the Retirement Department, Publix Corporate Office, Lakeland, Florida. Your change of beneficiary designation is not valid under the Plan until the Retirement Department receives and processes the properly completed Beneficiary Designation Card.



The SPD also provided these instructions:

Remember that a Beneficiary Designation Card is a legal document. It should not contain mark outs, erasures or correction fluid. It should be typed or printed in ink, and you must sign and date the card. Your beneficiary designation is not valid under the Plan until the Retirement Department receives and process the properly completed Beneficiary Designation Card.

In October 2008, Ms. Rizo properly named her niece and nephew as her beneficiaries for both the ESOP and the 401(k) Plan. By 2011, however, Ms. Rizo had been diagnosed with cancer and no longer worked for the company. On January 15 of that year, she called the employer and asked about how she could update her beneficiary designations. The company's representative instructed her that because she was not an active employee, she could write a letter to update her beneficiary designation. The representative further directed Ms. Rizo that in the letter she must state her name, her Social Security number, the name(s) of her new beneficiary(ies), and their Social Security numbers. Alternatively, Ms. Rizo was told that if she could obtain them, she could submit new completed Beneficiary Designation Cards.

Following these oral instructions, Ms. Rizo submitted a dated and signed letter including all of the required information and naming her good friend, Arlene Ruiz, as her sole beneficiary. However, she also submitted new Beneficiary Designation Cards. But, instead of dating and signing the cards, she simply wrote "As stated in letter." Unfortunately, Ms. Rizo died the day after the letter and cards were mailed to Publix.

The Plans paid both death benefits to Ms. Rizo's niece and nephew, in accord with the original 2008 designations. When the friend, Ms. Ruiz filed a claim for the death benefits, the Plans denied the claim because properly completed Beneficiary Designation Cards had not been filed naming her as the sole beneficiary. The denial referenced the SPDs' specific language about the requirements of how to make a proper beneficiary designation, including the requirement that the card be signed by the participant. Ms. Ruiz sued the Plan, claiming that the letter identifying her as the beneficiary was sufficient to entitle her to the death benefits.

In a decision that is a boon to plan administrators, the court rejected Ms. Ruiz's claim, and concluded that the niece and nephew were the correct beneficiaries. In ruling against Ms. Ruiz, the court based its decision on a 2009 United States Supreme Court case, Kennedy v. Plan Administrator for DuPont Savings and Investment Plan. In that case, as part of an executed divorce settlement, a plan participant's former spouse agreed to give up her claim to death benefits. However, the participant never updated his beneficiary designation. Accordingly, when he died several years later, the plan paid death benefits to the ex-wife, not to his estate. In finding in favor of the plan, the Supreme Court instructed that one of the purposes of The Employee Retirement Income Security Act of 1974 (ERISA), with respect to a written plan document is to inform employees of their rights and obligations under the plan. When there is a beneficiary dispute, the plan's written terms must be followed, to save the plan and its sponsor from costly litigation, avoid double liability, eliminate the need to examine and evaluate extrinsic documents to discern an employee's intent, and to make sure that benefits are paid quickly.

Using the Supreme Court opinion as a guide, the recent Ruiz opinion thus concluded that it does not matter if a participant “substantially complies” with designation procedures. Instead, a designation will not be changed unless the plan’s specific requirements are precisely followed.

The Publix Plans dodged a bullet with this decision. The case may have been less clear-cut if Ms. Rizo had not included the incomplete Beneficiary Designation Cards along with her letter. Since the letter indeed complied with all of the Publix representative’s directions, it certainly would have been a closer call.

But this risk could have been eliminated entirely, if: (a) the SPDs included the letter procedure for former employees; or (b) the representative simply repeated the SPDs’ instructions as to completing the Beneficiary Designation Cards, and not offered the letter procedure.

To avoid costly litigation, employers should review the beneficiary designation language in their plan documents, SPDs, online discussions, and any other employee communications about their plans. As this case highlights, having specific and consistent directions on how to change a beneficiary designation is helpful. More importantly, it is critical that those who administer the plan follow the plan’s written terms.

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