

## Court Finds That Plan Administrator Should Comply With Qualified Domestic Relations Order Issued After Retirement Plan Participant's Death

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*Wesley Covert*

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A recent opinion from the Second Circuit puts retirement plan administrators on notice that adjustments to benefits may be necessary to account for retroactively effective qualified domestic relations orders (QDROs). In *Yale-New Haven Hospital v. Nicholls*, the employee, who was a participant in the employer's retirement plan, died in 2012. At the time of the employee's death, his surviving wife was the named beneficiary on the employee's retirement plan account. However, the employee had entered into a divorce settlement agreement with his former wife several years earlier and that agreement assigned a portion of the employee's retirement benefits to her. As a result, the employee's former wife maintained that she was entitled to a portion of the retirement benefits pursuant to three state court orders--the order incorporating the terms of the divorce settlement agreement and two retroactive orders entered after the employee's death that established her right to a portion of the deceased employee's retirement benefits. The Second Circuit held that the divorce settlement agreement did not constitute a QDRO because the agreement failed to include required information to be a QDRO. However, the court found that the two orders entered after the employee's death met the requirements to be valid QDROs that assigned benefits to the employee's former wife. The court noted that federal Department of Labor regulations clarify that a domestic relations order that otherwise meets the QDRO requirements will not fail to be treated as a QDRO solely because (1) the order is issued after, or revises, a prior domestic relations order or (2) the timing of the QDRO.

### Attorneys

Wesley H. Covert

### Practice Areas

Employee Benefits and  
Executive Compensation

Retirement Plans

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The court cited these regulations in concluding that “the posthumous nature” of the two retroactive orders in this case did not affect their validity as legally enforceable QDROs and, therefore, the retirement plan administrator should comply with them. This case serves as an example of why plan administrators need to carefully consider each domestic relations order that may impact the distribution of retirement benefits, especially in cases involving spouses of deceased employees.