

As a Matter of Law

from Manulife's Tax & Estate Planning Group

A beneficiary designation is still unassailable

In a previous As a Matter of Law, we considered the Richardson Estate (Re) 2008 CanLII 63218 (On. S.C.) case. (See As a Matter of Law from Feb.2009 - *Are there circumstances when someone other than the named beneficiary can claim under a life insurance policy?*)

The case dealt with the question of whether an existing beneficiary designation in favour of a first spouse (Stephanie) should be set aside in favour of the second spouse (Anne). Anne was not successful at the trial level and appealed the decision to the Ontario Court of Appeal (Richardson Estate v. Mew, 2009 ONCA 403).

The Court of Appeal dismissed the case finding that the provisions of the Insurance Act should not be overridden and confirming the premise that a designation of a beneficiary is still unassailable.

The Court of Appeal also considered Anne's argument that as attorney she could change the existing beneficiary designation to herself. The Court of Appeal did not agree, confirming the legal premise that a designation of a beneficiary under a life insurance policy is akin to a testamentary disposition and therefore the attorney cannot change the designation.

The Court of Appeal reinforced long standing legal premises in both instances.

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