Question:

My question is about cashing out a pension and whether my ex-wife is entitled to a portion of it.

My former employer is offering me a one-time offer for a lump sum pension. My divorce decree awarded a portion of my pension to my ex-wife, but she understands my dire financial situation and is willing to let me keep all of the pension.

Is my ex-wife's verbal agreement enough for me to keep my pension? Should I fill out some document when I submit my forms for the lump sum payment?

Answer:

I am unable to give you legal advice on divorce . I can give general divorce help for men, though, my knowledge is based on Pennsylvania divorce laws where I am licensed to practice.

Pensions are regulated by federal law, specifically the Employee Retirement Income Security Act (ERISA) and the Retirement Equity Act. These laws preempt any state statutes regarding pensions.

Therefore, even a decree or court order awarding the benefits to someone other than the named beneficiary is ineffective until the change in beneficiary designation is actually effected.

This is because plan administrators are not required to consider documents outside the plan, so a spousal waiver contained in an otherwise valid contract may not necessarily be binding upon

the plan.

The Retirement Equity Act expressly provides that pension benefits will be allocated by means of a qualified domestic relations order (QDRO) in the event of matrimonial litigation. A QDRO is a domestic relations order that creates or recognizes the rights of an alternate payee to receive all or a portion of the benefits payable to a plan participant.

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If your divorce entitled your ex-wife to a portion of your pension via a deferred distribution, and a QDRO was done to ensure this, it will take more than her verbal agreement to give her portion of the pension to you.

You first need to find out how your pension was divided between you and your ex-wife. Was it offset or is she entitled to a deferred distribution of a portion of it? Was a QDRO entered to implement this? Was the QDRO finalized? If so, can it be modified or amended?

You may want to start by contacting your plan administrator about these issues.

Remember, I am unable to provide you with anything more than divorce tips for men , so please consult with divorce lawyers for men in your jurisdiction.

To arrange an initial consultation to discuss divorce rights for men with a Cordell & Cordell attorney, including Pittsburgh Divorce Lawyer Anna M. Ciardi, contact Cordell & Cordell .