

# Update Beneficiary Designations After Divorce or Annulment

December 16, 2016

Co-Author, Michael P. Sampson



On July 1, 2015, the Florida Fourth District Court of Appeal held, with a few exceptions, upon entry of a final judgment of dissolution or annulment, any provision of a will that “affects” a former spouse is void under [section 732.507\(2\), Florida Statutes](#). See *Carroll v. Israelson*, 169 So. 3d 239 (Fla. 4<sup>th</sup> DCA 2015) (followed in *Galazka v. Estate of Perkins*, 184 So. 3d 635 (Fla. 4<sup>th</sup> DCA 2016)). The *Carroll v. Israelson* court applied the statute to invalidate provisions of a will establishing trusts upon the decedent’s death for the benefit of his former wife’s relatives, because such provisions “affected” her. The court observed divorcing parties, even when their attorneys advise them to update their estate plans, resist thinking about their own mortality and procrastinate post-divorce estate planning. But [section 732.507\(2\), Florida Statutes](#) protects them by making void, upon entry of a final judgment of dissolution or annulment, any provision of a will that “affects” a former spouse. Read the verb “affects” broadly, as the *Carroll* court did. For a provision to “affect” a former spouse, the provision does not need to have a direct financial benefit on the former spouse. *Carroll* held the date of dissolution or annulment triggers the statute. It does not allow for “post-death legal gymnastics to manipulate the issue of

whether a will provision ‘affects’ the former spouse.” Exceptions include:

- A specific post-divorce designation of a former spouse in a will or trust as an irrevocable beneficiary;
- An obligation in a final judgment to make the former spouse an irrevocable beneficiary

By updating beneficiary designations in wills and other instruments upon divorce or annulment, parties may avoid leaving costly, acrimonious, drawn out litigation as part of their legacy. \_\_\_ **Related Articles**

- [Remind Employees to Update Beneficiary Designations](#)
- [Divorce and Beneficiary Designations—Florida Law Changes](#)

## Authored By



Edith G. Osman

## Related Practices

[Family Law](#)

[Estates, Trusts and Probate](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.