



CalPERS Model Domestic Relations Orders

Pub 38B

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INTRODUCTION

This publication contains samples of legal documents that are used in California state courts to divide the community property of a member's CalPERS retirement benefits between individuals who are dissolving a marriage or legal domestic partnership. It presents sample domestic relations orders pertaining to the standard methods of dividing retirement benefits due to community property—the Separation of Account (Model A) and the Time Rule Formula (Models B and C). These orders are based on the California Public Employees' Retirement Law (PERL) and the California Family Code.

This publication is a companion to our publication, *A Guide to CalPERS Community Property* (PUB 38A), which explains the PERL provisions for dividing CalPERS retirement benefits as community property. It also identifies the necessary court order notifications and other requirements that apply when CalPERS benefits are divided as community property.

**Model Order A –
Separation of Account for Members Not Retired**

(Appears on pages 4–13)

1 [NAME OF COUNSEL]
2 [ADDRESS OF COUNSEL]
3 [CITY, STATE]
4 [PHONE NUMBER]

5 ATTORNEY FOR [PETITIONER/RESPONDENT]

6 MODEL ORDER PROVISIONS*

7 CAUTION: THE DISPOSITION OF RETIREMENT BENEFITS IN DOMESTIC RELATIONS PROCEEDINGS INVOLVES COMPLEX
8 MARITAL OR DOMESTIC PARTNER RIGHTS AND TAX ISSUES. THE FOLLOWING IS A MODEL ORDER WHICH DEMONSTRATES
9 SEVERAL METHODS OF SPLITTING RETIREMENT BENEFITS PROVIDED TO MEMBERS OF THE CALIFORNIA PUBLIC
10 EMPLOYEES' RETIREMENT SYSTEM. OTHER METHODS OF SPLITTING SUCH BENEFITS ARE AVAILABLE AND THIS MODEL
11 ORDER MAY BE INAPPROPRIATE FOR YOU.

12 THIS SAMPLE IS PROVIDED AS A COURTESY ONLY, AS NEITHER THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
13 SYSTEM, NOR ITS AGENTS OR CONSULTANTS ARE AUTHORIZED TO GIVE LEGAL ADVICE AND THEY MAKE NO
14 REPRESENTATION AS TO ITS SUFFICIENCY UNDER APPLICABLE FEDERAL OR STATE LAW OR AS TO ITS LEGAL
15 CONSEQUENCES.

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF _____

18 _____)
19 In re the Marriage OR Domestic Partnership of)
20 Petitioner: _____)
21 and)
22 Respondent: _____)
23 _____)

Case No. _____

MODEL ORDER A
STIPULATED DOMESTIC RELATIONS ORDER RE: DIVISION OF CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM BENEFITS

24 Petitioner, _____, and Respondent,
25 _____, and the Board of Administration of the
26 California Public Employees' Retirement System
27 ("Administrator") as administrator of the Public Employees'
28 Retirement System ("CalPERS" or "System") hereby stipulate
as follows:

* These provisions reflect California community property law and may need to be revised to accommodate other state domestic relations laws. Please refer to the instructions contained in the publication **A Guide to CalPERS Community Property** (PUB 38A).

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RECITALS

1. Petitioner and Respondent were married or registered to each other on _____. They separated on _____, and this Court entered a judgment of dissolution of marriage or domestic partnership in the action on _____.

2. This Court has personal jurisdiction over both Petitioner and Respondent and jurisdiction over the subject matter of this Order and the dissolution of marriage or domestic partnership action.

3. CalPERS was properly joined as a party to the Petitioner and Respondent's dissolution of marriage or domestic partnership action pursuant to sections 2060 through 2065 of the California Family Code.

STIPULATION

This Order is acceptable under the Public Employees' Retirement Law ("PERL"), which is set forth at section 20000, et seq., of the California Government Code.

IT IS HEREBY ORDERED BY THE COURT THAT:

4. This Order is entered pursuant to the California Family Code.

5. **[Respondent or Petitioner]** ("Member") and **[Respondent or Petitioner]** ("Nonmember Spouse") have acquired a community interest in the Member's accumulated retirement contributions and service credit attributable to periods of service in the System during the period from the

1 Date of Marriage or Date of Registration of Domestic
2 Partnership up to the Date of Separation.

3

4 6. Pursuant to section 21290 of the California
5 Government Code, the Court allocates and awards to the
6 Nonmember 50% of the accumulated retirement contributions
7 and service credit attributable to the Member's service in
8 the System during the period from the Date of Marriage or
9 Date of Registration of Domestic Partnership up to the Date
10 of Separation ("System Interest") as the Nonmember's sole
11 and separate property. All accumulated retirement
12 contributions and service credit attributable to the
13 Member's service in the System not awarded to the Nonmember
14 pursuant to this Order shall be the Member's sole and
15 separate property.

16 7. Pursuant to section 21290(b) of the California
17 Government Code, the Administrator shall divide the Member's
18 accumulated retirement contributions and service credit in
19 accordance with Paragraph 6 of this Order and establish a
20 separate and distinct account for the interest awarded to
21 the Member and the Nonmember as soon as administratively
22 practicable after the Administrator determines that this
23 Order is acceptable under the PERL.

24 8. From and after the date that the Administrator has
25 divided the Member's accumulated retirement contributions
26 and service credit pursuant to Paragraph 7 of this Order,
27 the Nonmember shall be entitled to all applicable rights
28 permitted under section 21290(c) of the California
Government Code, including:

1 a. The right to a service retirement allowance,
2 including the right to elect an optional settlement and the
3 right to name a beneficiary, provided that the Nonmember is
4 otherwise eligible for such an allowance in accordance with
5 section 21295 of the California Government Code;

6 b. The right to a refund of that portion of the
7 Nonmember's System Interest which represents accumulated
8 Member retirement contributions in accordance with section
9 21292 of the California Government Code, including any
10 interest which has accrued on such contributions through the
11 date of payment;

12 c. The right to redeposit the **Nonmember's**
13 System Interest in any accumulated retirement contributions
14 attributable to the Member's service during the period from
15 the Date of Marriage or Date of Registration of Domestic
16 Partnership up to the Date of Separation which would
17 otherwise have been eligible for redeposit by the Member
18 under sections 20750 and 20752 of the California Government
19 Code, in accordance with section 21293 of the California
20 Government Code;

21 d. The right to purchase the **Nonmember's** System
22 Interest in any additional service credit earned during the
23 period from the Date of Marriage or Date of Registration of
24 Domestic Partnership up to the Date of Separation which
25 would otherwise have been eligible for purchase by the
26 Member under Article 4 (commencing with section 20990 of the
27 California Government Code) and Article 5 (commencing with
28 section 21020 of the California Government Code) of Chapter

1 11, in accordance with section 21294 of the California
2 Government Code;

3 e. The right to designate a beneficiary to
4 receive that portion of the Nonmember's System Interest
5 which represents accumulated Member contributions and any
6 interest on such contributions payable at death prior to the
7 Nonmember's retirement and to receive any unpaid monthly
8 retirement allowance payable at death after the Nonmember's
9 retirement; and

10 9. If the Nonmember fails to designate a beneficiary
11 pursuant to paragraph 8.e. of this Order or the designated
12 beneficiary does not survive the Nonmember, any portion of
13 the Nonmember's System Interest which is payable after his
14 or her death shall be paid in accordance with section 21493
15 of the California Government Code.

16 10. Notwithstanding any other provision of this Order,
17 if the Member does not have the necessary minimum credited
18 service to retire as of the date of dissolution or legal
19 separation, the Nonmember shall receive a refund of that
20 portion of the Nonmember's System Interest which represents
21 accumulated Member contributions and any interest that has
22 accrued to such contributions as soon as administratively
23 practicable following the date an account was established
24 for the Nonmember pursuant to paragraph 7 of this Order in
25 accordance with section 21292(g) of the California
26 Government Code.

27 11. The Nonmember's System Interest will be applied to
28 any cost-of-living increases or other similar increases, but
only to the extent permitted under the PERL.

1 12. The Member and the Nonmember shall be responsible
2 for and pay any taxes due in connection with his or her
3 receipt of distributions from the System.

4 13. Member's Name. For purposes of making any benefit
5 payments provided by the terms of this Order or providing
6 any notice required by the terms of this Order, Member's
7 name, current mailing address, telephone number, Social
8 Security number, date of birth, and gender are as follows:

9 Name: _____

10 Address: _____
11 _____

12 Telephone No.: (_____) _____

13 Social Security Number: ____ - ____ - ____

14 Date of Birth: _____

15 Gender: _____

16
17 14. Nonmember's Name. For purposes of making any
18 benefit payments required by the terms of this Order or
19 providing any notice required by the terms of this Order,
20 the Nonmember Spouse's name, current mailing address,
21 telephone number, Social Security number, date of birth, and
22 gender are as follows:

23 Name: _____

24 Address: _____
25 _____

26 Telephone No.: (_____) _____

27 Social Security Number: ____ - ____ - ____

28 Date of Birth: _____

Gender: _____

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2 15. Notice of change of address or telephone number
3 shall be made by telephone or in writing to the
4 Administrator, addressed as indicated below, or as the
5 Administrator may specify in a written notice to the
6 Nonmember:

7 California Public Employees' Retirement System
8 Attn: Community Property Unit
9 P.O. Box 2056
Sacramento, CA 95812-2056

10 16. The Member and the Nonmember shall sign all forms,
11 letters and other documents as required to effect the
12 distribution(s) described herein and the intent of this
13 Order.

14 17. The Nonmember, the Nonmember's agents and
15 attorneys are authorized to receive any and all information
16 concerning the Member's benefits until such time as the
17 Nonmember has received the Nonmember's System Interest.

18 18. Notwithstanding any other provision of this Order,
19 the Order shall not be construed as to require the System:

20 (a) to provide any form of benefit or any option
21 not otherwise provided under the PERL;

22 (b) to provide increased benefits (as determined
23 based on actuarial value) not available to the Member;

24 (c) to provide benefits to the Nonmember which
25 are required to be paid to another nonmember under another
26 Order previously entered by a Court of competent
27 jurisdiction and acceptable under the PERL;

28 (d) to provide payment to the Nonmember of
benefits forfeited by the Member; or

1 (e) to change the benefit election of the Member
2 once the Member has retired.

3 19. It is further ORDERED that the Member shall act as
4 constructive trustee of any benefits assigned to the
5 Nonmember under this Order which may be paid to or received
6 by the Member. The Member, as trustee, shall promptly pay
7 or transmit any such benefits to the Nonmember at the
8 Nonmember's last known address. It is also ORDERED that the
9 Nonmember shall act as constructive trustee of any benefits
10 assigned to the Member under this Order which may be paid to
11 or received by the Nonmember. The Nonmember, as trustee,
12 shall promptly pay or transmit any such benefits to the
13 Member at the Member's last known address.

14 20. This Order shall be administered and interpreted
15 in conformity with the PERL and other applicable law. If
16 the PERL is amended, then Member and the Nonmember shall
17 immediately take the steps necessary to amend this Order to
18 comply with any such amendments, changes and/or
19 modifications, or, if permissible under any such change,
20 amendment, or modification to the PERL, the Administrator
21 may treat this Order as acceptable. The Member and the
22 Nonmember shall be responsible for any of the costs and/or
23 expenses associated with any such amendment.

24 21. The Member, the Nonmember, the Administrator, and
25 the Court intend that this Order meets all requirements of a
26 domestic relations order under the PERL and other laws of
27 the State of California, and the Court shall reserve
28 jurisdiction to modify this Order for the purpose of meeting
or monitoring its implementation. The Court's reservation

1 of jurisdiction shall be liberally construed to effect the
2 provisions of this Order and to resolve any disputes that
3 may arise among the parties and the Administrator concerning
4 benefit payments or any other aspect of this Order. If any
5 portion of this Order is rendered invalid, illegal,
6 unconstitutional or otherwise unenforceable, the Court
7 reserves jurisdiction to make an appropriate adjustment to
8 effectuate the intent of the parties. Any future fees,
9 taxes, and/or penalties will be assessed against the parties
10 who then have an interest payable from the System.

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SAMPLE

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It is so Stipulated:

Dated: _____
[NAME]
Petitioner

Dated: _____
[NAME]
Attorney for Petitioner

Dated: _____
[NAME]
Respondent

Dated: _____
[NAME]
Attorney for Respondent

Dated: _____
Administrator of the California
Public Employees' Retirement
System.

ORDER

The parties having stipulated thereto and good cause
appearing therefore.

IT IS SO ORDERED.

Dated: _____
JUDGE OF THE SUPERIOR COURT

**Model Order B –
Division of Benefits for Members Not Retired**

(Appears on pages 15–23)

1 [NAME OF COUNSEL]
2 [ADDRESS OF COUNSEL]
3 [CITY, STATE]
4 [PHONE NUMBER]

5 ATTORNEY FOR [PETITIONER/RESPONDENT]

6 MODEL ORDER PROVISIONS*

7 CAUTION: THE DISPOSITION OF RETIREMENT BENEFITS IN DOMESTIC RELATIONS PROCEEDINGS INVOLVES COMPLEX
8 MARITAL OR DOMESTIC PARTNER RIGHTS AND TAX ISSUES. THE FOLLOWING IS A MODEL ORDER WHICH DEMONSTRATES
9 SEVERAL METHODS OF SPLITTING RETIREMENT BENEFITS PROVIDED TO MEMBERS OF THE CALIFORNIA PUBLIC
10 EMPLOYEES' RETIREMENT SYSTEM. OTHER METHODS OF SPLITTING SUCH BENEFITS ARE AVAILABLE AND THIS MODEL
11 ORDER MAY BE INAPPROPRIATE FOR YOU.

12 THIS SAMPLE IS PROVIDED AS A COURTESY ONLY, AS NEITHER THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
13 SYSTEM, NOR ITS AGENTS OR CONSULTANTS ARE AUTHORIZED TO GIVE LEGAL ADVICE AND THEY MAKE NO
14 REPRESENTATION AS TO ITS SUFFICIENCY UNDER APPLICABLE FEDERAL OR STATE LAW OR AS TO ITS LEGAL
15 CONSEQUENCES.

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF _____

18 _____)
19 In re the Marriage or Domestic Partnership of)
20 Petitioner: _____)
21 and)
22 Respondent: _____)
23 _____)

Case No. _____

MODEL ORDER B
STIPULATED DOMESTIC
RELATIONS ORDER RE:
DIVISION OF CALIFORNIA
PUBLIC EMPLOYEES'
RETIREMENT SYSTEM BENEFITS

24 Petitioner, _____, and Respondent,
25 _____, and the Board of Administration of the
26 California Public Employees' Retirement System
27 ("Administrator") as administrator of the Public Employees'
28 Retirement System ("CalPERS" or "System") hereby stipulate
as follows:

29 _____
30 * These provisions reflect California community property law and may need
31 to be revised to accommodate other state domestic relations laws. Please
32 refer to the instructions contained in the publication ***A Guide to CalPERS***
33 ***Community Property*** (PUB 38A).

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RECITALS

1. Petitioner and Respondent were Married or registered to each other on _____. They separated on _____, and this Court entered a judgment of dissolution of marriage or domestic partnership in the action on _____.

2. This Court has personal jurisdiction over both Petitioner and Respondent and jurisdiction over the subject matter of this Order and the dissolution of marriage or domestic partnership action.

3. CalPERS was properly joined as a party to the Petitioner and Respondent's dissolution of marriage or domestic partnership action pursuant to sections 2060 through 2065 of the California Family Code.

STIPULATION

This Order is acceptable under the Public Employees' Retirement Law ("PERL"), which is set forth at section 20000, et seq., of the California Government Code.

IT IS HEREBY ORDERED BY THE COURT THAT:

4. This Order is entered pursuant to the California Family Code.

5. **[Respondent or Petitioner]** ("Member") and **[Respondent or Petitioner]** ("Nonmember") have acquired a community interest in the Member's retirement benefits attributable to periods of service in the System from the Date of Marriage or Date of Registration of Domestic Partnership up to the Date of Separation.

1 6. Calculation of Nonmember's Interest.

2 The Court allocates and awards to the Nonmember an
3 interest in any and all of the Member's "retirement
4 benefits" calculated as follows:

$$\begin{array}{rcll} \text{Retirement} & & \text{Member's credited service} & \\ \text{Benefits} & \times & \text{in the System from Date of} & \\ & & \text{Marriage or Date of} & \\ & & \text{Registration of Domestic} & \\ & & \text{Partnership until Date of} & \\ & & \text{Separation} & \\ & & \hline & & \text{Member's total credited} & \\ & & \text{service in the System} & \\ & & & \times 50\% = & \text{Nonmember's} \\ & & & & \text{System} \\ & & & & \text{Interest} \end{array}$$

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10 For purposes of this Order, the term "retirement benefits"
11 shall include any refund of the Member's accumulated
12 retirement contributions, any service retirement benefits,
13 any disability retirement benefits, any industrial
14 disability retirement benefits and any death benefits (as
15 provided in paragraph 9 a. and b. of this ORDER). The
16 portion of the Member's retirement benefits which are
17 allocated and awarded to the Nonmember pursuant to the terms
18 of this paragraph shall hereinafter be referred to as the
19 Nonmember's "System Interest." All retirement benefits
20 attributable to the Member's service in the System not
21 awarded to the Nonmember pursuant to this Order shall be the
22 Member's sole and separate property.

23 7. Form of Retirement Benefit.

24 At the time the Member retires, the Member shall elect
25 Optional Settlement method no. 4, naming the Nonmember as
26 beneficiary to the extent of his or her community property
27 interest. The community property interest will be determined
28 at the Member's retirement based on the formula provided in
paragraph 6.

1 8. Commencement of Benefits to the Nonmember.

2 The Nonmember shall commence to receive the Nonmember's
3 System Interest by separate warrant directly from the System
4 beginning on the earlier of the date the Member commences to
5 receive his or her retirement benefits or as soon as
6 administratively practicable following the Member's death.

7 9. Benefits payable at Member's Death.

8 a. Pre-retirement death benefits.

9 If the Member dies prior to retirement, the
10 Administrator shall pay by separate warrant, directly to the
11 Nonmember, the Nonmember's System Interest as applied to any
12 death benefit payable as a result of the Member's death,
13 whether lump sum or monthly.

14 b. Post-retirement death benefits.

15 If the Member dies after retirement, and a lump sum
16 death benefit is payable from the System, the Administrator
17 shall pay by separate warrant, directly to the Nonmember,
18 the Nonmember's System Interest as applied to such benefit.

19 In addition to any lump sum death benefit which may be
20 payable to the Nonmember pursuant to the preceding sentence,
21 if the Nonmember was not designated as beneficiary under an
22 optional settlement and thus, not entitled to a monthly
23 allowance in his or her own right, the Administrator shall
24 pay by separate warrant directly to the Nonmember the
25 Nonmember's System Interest in any monthly allowance
26 otherwise payable for as long as that benefit is payable to
27 the Member's beneficiary or survivor.

28 10. Benefits Payable at Nonmember's Death. If the
Nonmember dies prior to the time that the Nonmember has

1 received or commences to receive the Nonmember's System
2 Interest, and benefits are payable to the Member at any time
3 in the future, the Administrator shall pay the Nonmember's
4 System Interest to the beneficiary named below by separate
5 warrant directly to such beneficiary as soon as
6 administratively practicable after the date that benefits
7 are payable. If the designated beneficiary is not living at
8 the time benefits are payable, such Interest shall be paid
9 in accordance with section 21493 of the California
10 Government Code.

11 Beneficiary: _____

12 Address: _____

13 _____

14 Social Security Number: ____ - ____ - ____

15 Date of Birth: _____

16 Gender: _____

17

18 11. The Nonmember's System Interest will be applied to
19 any cost-of-living increases or other similar increases, but
20 only to the extent permitted under the PERL.

21

22 12. The Member and the Nonmember shall be responsible
23 for and pay any taxes due in connection with his or her
24 receipt of distributions from the System.

25

26 13. Member's Name. For purposes of making any benefit
27 payments provided by the terms of this Order or providing
28 any notice required by the terms of this Order, Member's
name, current mailing address, telephone number, Social
Security number, date of birth and gender are as follows:

29

Name: _____

1 Address: _____
2 _____
3 Telephone No.: (____) _____
4 Social Security Number: ____ - ____ - ____
5 Date of Birth: _____
6 Gender: _____

7 14. Nonmember's Name. For purposes of making any
8 benefit payments required by the terms of this Order or
9 providing any notice required by the terms of this Order,
10 the Nonmember's name, current mailing address, telephone
11 number, Social Security number, date of birth and gender are
12 as follows:

13 Name: _____
14 Address: _____
15 _____
16 Telephone No.: (____) _____
17 Social Security Number: ____ - ____ - ____
18 Date of Birth: _____
19 Gender: _____

20 15. Notice of change of address or telephone number
21 shall be made by telephone or in writing to the
22 Administrator, addressed as indicated below, or as the
23 Administrator may specify in a written notice to the
24 Nonmember:

25 California Public Employees' Retirement System
26 Attn: Community Property Unit
27 P.O. Box 2056
Sacramento, CA 95812-2056

28 16. The Member and the Nonmember shall sign all forms,
letters and other documents as required to effect the

1 distribution(s) described herein and the intent of this
2 Order.

3 17. The Nonmember, the Nonmember's agents and
4 attorneys are authorized to receive any and all information
5 concerning the Member's benefits until such time as the
6 Nonmember has received the Nonmember's System Interest.

7 18. Notwithstanding any other provision of this Order,
8 the Order shall not be construed as to require the System:

9 (a) to provide any form of benefit or any option
10 not otherwise provided under the PERL;

11 (b) to provide increased benefits (as determined
12 based on actuarial value) not available to the Member;

13 (c) to provide benefits to the Nonmember which
14 are required to be paid to another nonmember under another
15 Order previously entered by a Court of competent
16 jurisdiction and acceptable under the PERL;

17 (d) to provide payment to the Nonmember of
18 benefits forfeited by the Member; or

19 (e) to change the benefit election of the Member
20 once the Member has retired.

21 19. It is further ORDERED that the Member shall act as
22 constructive trustee of any benefits assigned to the
23 Nonmember under this Order which may be paid to or received
24 by the Member. The Member, as trustee, shall promptly pay
25 or transmit any such benefits to the Nonmember at the
26 Nonmember's last known address. It is also ORDERED that the
27 Nonmember shall act as constructive trustee of any benefits
28 assigned to the Member under this Order which may be paid to
or received by the Nonmember. The Nonmember, as trustee,

1 shall promptly pay or transmit any such benefits to the
2 Member at the Member's last known address.

3 20. This Order shall be administered and interpreted
4 in conformity with the PERL and other applicable law. If
5 the PERL is amended, then Member and the Nonmember shall
6 immediately take the steps necessary to amend this Order to
7 comply with any such amendments, changes and/or
8 modifications, or, if permissible under any such change,
9 amendment, or modification to the PERL, the Administrator
10 may treat this Order as acceptable. The Member and the
11 Nonmember shall be responsible for any of the costs and/or
12 expenses associated with any such amendment.

13 21. The Member, the Nonmember, the Administrator, and
14 the Court intend that this Order meets all requirements of a
15 domestic relations order under the PERL and other laws of
16 the State of California, and the Court shall reserve
17 jurisdiction to modify this Order for the purpose of meeting
18 or monitoring its implementation. The Court's reservation
19 of jurisdiction shall be liberally construed to effect the
20 provisions of this Order and to resolve any disputes that
21 may arise among the parties and the Administrator concerning
22 benefit payments or any other aspect of this Order. If any
23 portion of this Order is rendered invalid, illegal,
24 unconstitutional or otherwise unenforceable, the Court
25 reserves jurisdiction to make an appropriate adjustment to
26 effectuate the intent of the parties. Any future fees,
27 taxes, and/or penalties will be assessed against the parties
28 who then have an interest payable from the System.

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It is so Stipulated:

Dated: _____
[NAME]
Petitioner

Dated: _____
[NAME]
Attorney for Petitioner

Dated: _____
[NAME]
Respondent

Dated: _____
[NAME]
Attorney for Respondent

Dated: _____
Administrator of the California
Public Employees' Retirement
System.

ORDER

The parties having stipulated thereto and good cause
appearing therefore.

IT IS SO ORDERED.

Dated: _____
JUDGE OF THE SUPERIOR COURT

**Model Order C –
Division of Benefits for Retired Members Only**

(Appears on publication pages 25–33)

1 [NAME OF COUNSEL]
2 [ADDRESS OF COUNSEL]
3 [CITY, STATE]
4 [PHONE NUMBER]

5 ATTORNEY FOR [PETITIONER/RESPONDENT]

6 MODEL ORDER PROVISIONS*

7 CAUTION: THE DISPOSITION OF RETIREMENT BENEFITS IN DOMESTIC RELATIONS PROCEEDINGS INVOLVES COMPLEX
8 MARITAL OR DOMESTIC PARTNERSHIP RIGHTS AND TAX ISSUES. THE FOLLOWING IS A MODEL ORDER WHICH
9 DEMONSTRATES SEVERAL METHODS OF SPLITTING RETIREMENT BENEFITS PROVIDED TO MEMBERS OF THE CALIFORNIA
10 PUBLIC EMPLOYEES' RETIREMENT SYSTEM. OTHER METHODS OF SPLITTING SUCH BENEFITS ARE AVAILABLE AND THIS
11 MODEL ORDER MAY BE INAPPROPRIATE FOR YOU.

12 THIS SAMPLE IS PROVIDED AS A COURTESY ONLY, AS NEITHER THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT
13 SYSTEM, NOR ITS AGENTS OR CONSULTANTS ARE AUTHORIZED TO GIVE LEGAL ADVICE AND THEY MAKE NO
14 REPRESENTATION AS TO ITS SUFFICIENCY UNDER APPLICABLE FEDERAL OR STATE LAW OR AS TO ITS LEGAL
15 CONSEQUENCES.

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF _____

18 _____)
19 In re the Marriage or Domestic Partnership of)
20 Petitioner: _____)
21 and)
22 Respondent: _____)
23 _____)

Case No. _____

MODEL ORDER C
STIPULATED DOMESTIC
RELATIONS ORDER RE:
DIVISION OF CALIFORNIA
PUBLIC EMPLOYEES'
RETIREMENT SYSTEM BENEFITS

24 Petitioner, _____, and Respondent,
25 _____, and the Board of Administration of the
26 California Public Employees' Retirement System
27 ("Administrator") as administrator of the Public Employees'
28 Retirement System ("CalPERS" or "System") hereby stipulate
as follows:

* These provisions reflect California community property law and may need to be revised to accommodate other state domestic relations laws. Please refer to the instructions contained in the publication **A Guide to CalPERS Community Property** (PUB 38A).

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RECITALS

1. Petitioner and Respondent were married or registered to each other on _____. They separated on _____, and this Court entered a judgment of dissolution of marriage or domestic partnership in the action on _____.

2. This Court has personal jurisdiction over both Petitioner and Respondent and jurisdiction over the subject matter of this Order and the dissolution of marriage or domestic partnership action.

3. CalPERS was properly joined as a party to the Petitioner and Respondent's dissolution of marriage or domestic partnership action pursuant to sections 2060 through 2065 of the California Family Code.

STIPULATION

This Order is acceptable under the Public Employees' Retirement Law ("PERL"), which is set forth at section 20000, et seq., of the California Government Code.

IT IS HEREBY ORDERED BY THE COURT THAT:

4. This Order is entered pursuant to the California Family Code.

5. **[Respondent or Petitioner]** ("Member") and **[Respondent or Petitioner]** ("Nonmember") have acquired a community interest in the Member's monthly retirement benefits attributable to periods of service in the System from the Date of Marriage or Date of Registration of Domestic Partnership up to the Date of Separation or Date of Retirement, whichever occurs first.

1 6. The Member is currently receiving \$ _____ [Enter
 2 **amount]** a month under option _____ [Enter option
 3 **selected at retirement]** with _____ [Name of
 4 **Beneficiary]** named as beneficiary of any benefits payable
 5 under such option at the Member's death.

6 7. Calculation of Nonmember's Interest.

7 The Court allocates and awards to the Nonmember an
 8 interest in any and all of the Member's "retirement
 9 benefits" calculated as follows:

Retirement Benefits	x	$\frac{\text{Member's credited service in the System from Date of Marriage or Date of Registration of Domestic Partnership until Date of Separation}}{\text{Member's total credited service in the System}}$	x 50% =	Nonmember's System Interest
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14
 15 For purposes of this Order, the term "retirement benefits"
 16 shall include any service retirement benefits, any
 17 industrial disability retirement benefits, any disability
 18 retirement benefits and any death benefits (as provided in
 19 paragraph 9 of this Order). The portion of the Member's
 20 retirement benefits which are allocated and awarded to the
 21 Nonmember pursuant to the terms of this paragraph shall
 22 hereinafter be referred to as the Nonmember's "System
 23 Interest." All retirement benefits attributable to the
 24 Member's service in the System not awarded to the Nonmember
 25 pursuant to this Order shall be the Member's sole and
 26 separate property.

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1 8. Commencement of Benefits to the Nonmember .

2 The Nonmember shall commence to receive the Nonmember's
3 System Interest by separate warrant directly from the System
4 as soon as administratively practicable following the date
5 the Administrator determines that this Order is acceptable
6 under the PERL.

7 9. Benefits payable at Member's Death.

8 Upon the Member's death after retirement, and if a lump
9 sum death benefit is payable from the System, the
10 Administrator shall pay by separate warrant, directly to the
11 Nonmember, the Nonmember's System Interest as applied to
12 such benefit. In addition to any lump sum death benefit
13 which may be payable to the Nonmember pursuant to the
14 aforementioned sentence, if the Nonmember was not designated
15 as beneficiary under an optional settlement and thus, not
16 entitled to a monthly allowance in his or her own right, the
17 Administrator shall pay by separate warrant, directly to the
18 Nonmember Spouse, the Nonmember's System Interest as applied
19 to any monthly allowance otherwise payable for as long as
20 the benefit is payable to the Member's beneficiary or
21 survivor.

22 10. Benefits Payable at Nonmember's Death. If
23 benefits are still payable to the Member at the time of the
24 Nonmember's death, the Administrator shall continue to pay
25 the Nonmember's System Interest by separate warrant directly
26 to the beneficiary named below. If such beneficiary does
27 not survive the Nonmember, such Interest shall be paid in
28 accordance with section 21493 of the California Government
Code.

1 Beneficiary: _____

2 Address: _____

3 _____

4 Social Security Number: ____ - ____ - _____

5 Date of Birth: _____

6 Gender: _____

7 11. The Nonmember's System Interest will be applied to
8 any cost-of-living increases or other similar increases, but
9 only to the extent permitted under the PERL.

10 12. The Member and the Nonmember shall be responsible
11 for and pay any taxes due in connection with his or her
12 receipt of distributions from the System.

13 13. Member's Name. For purposes of making any benefit
14 payments provided by the terms of this Order or providing
15 any notice required by the terms of this Order, Member's
16 name, current mailing address, telephone number, Social
17 Security number, date of birth and gender are as follows:

18 Name: _____

19 Address: _____

20 _____

21 Telephone No.: (____) _____

22 Social Security Number: ____ - ____ - _____

23 Date of Birth: _____

24 Gender: _____

25 14. Nonmember's Name. For purposes of making any
26 benefit payments required by the terms of this Order or
27 providing any notice required by the terms of this Order,
28 the Nonmember's name, current mailing address, telephone

1 number, Social Security number, date of birth and gender are
2 as follows:

3 Name: _____

4 Address: _____

5 _____

6 Telephone No.: (____) _____

7 Social Security Number: ____ - ____ - ____

8 Date of Birth: _____

9 Gender: _____

10 15. Notice of change of address or telephone number
11 shall be made by telephone or in writing to the
12 Administrator, addressed as indicated below, or as the
13 Administrator may specify in a written notice to the
14 Nonmember:

15 California Public Employees' Retirement System
16 Attn: Community Property Unit
17 P.O. Box 2056
18 Sacramento, CA 95812-2056

19 16. The Member and the Nonmember shall sign all forms,
20 letters and other documents as required to effect the
21 distribution(s) described herein and the intent of this
22 Order.

23 17. The Nonmember, the Nonmember's agents and
24 attorneys are authorized to receive any and all information
25 concerning the Member's benefits until such time as the
26 Nonmember has received the Nonmember's System Interest.

27 18. Notwithstanding any other provision of this Order,
28 the Order shall not be construed as to require the System:

(a) to provide any form of benefit or any option
not otherwise provided under the PERL;

1 (b) to provide increased benefits (as determined
2 based on actuarial value) not available to the Member;

3 (c) to provide benefits to the Nonmember which
4 are required to be paid to another nonmember under another
5 Order previously entered by a Court of competent
6 jurisdiction and acceptable under the PERL;

7 (d) to provide payment to the Nonmember of
8 benefits forfeited by the Member; or

9 (e) to change the benefit election of the Member
10 once the Member has retired.

11 19. It is further ORDERED that the Member shall act as
12 constructive trustee of any benefits assigned to the
13 Nonmember under this Order which may be paid to or received
14 by the Member. The Member, as trustee, shall promptly pay
15 or transmit any such benefits to the Nonmember at the
16 Nonmember's last known address. It is also ORDERED that the
17 Nonmember shall act as constructive trustee of any benefits
18 assigned to the Member under this Order which may be paid to
19 or received by the Nonmember. The Nonmember, as trustee,
20 shall promptly pay or transmit any such benefits to the
21 Member at the Member's last known address.

22 20. This Order shall be administered and interpreted
23 in conformity with the PERL and other applicable law. If
24 the PERL is amended, then Member and the Nonmember shall
25 immediately take the steps necessary to amend this Order to
26 comply with any such amendments, changes and/or
27 modifications, or, if permissible under any such change,
28 amendment, or modification to the PERL, the Administrator
may treat this Order as acceptable. The Member and the

1 Nonmember shall be responsible for any of the costs and/or
2 expenses associated with any such amendment.

3 21. The Member, the Nonmember, the Administrator, and
4 the Court intend that this Order meets all requirements of a
5 domestic relations order under the PERL and other laws of
6 the State of California, and the Court shall reserve
7 jurisdiction to modify this Order for the purpose of meeting
8 or monitoring its implementation. The Court's reservation
9 of jurisdiction shall be liberally construed to effect the
10 provisions of this Order and to resolve any disputes that
11 may arise among the parties and the Administrator concerning
12 benefit payments or any other aspect of this Order. If any
13 portion of this Order is rendered invalid, illegal,
14 unconstitutional or otherwise unenforceable, the Court
15 reserves jurisdiction to make an appropriate adjustment to
16 effectuate the intent of the parties. Any future fees,
17 taxes, and/or penalties will be assessed against the parties
18 who then have an interest payable from the System.

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It is so Stipulated:

Dated: _____
[NAME]
Petitioner

Dated: _____
[NAME]
Attorney for Petitioner

Dated: _____
[NAME]
Respondent

Dated: _____
[NAME]
Attorney for Respondent

Dated: _____
Administrator of the California
Public Employees' Retirement
System.

ORDER

The parties having stipulated thereto and good cause
appearing therefore.

IT IS SO ORDERED.

Dated: _____
JUDGE OF THE SUPERIOR COURT

California Public Employees' Retirement System

400 Q Street
P.O. Box 942701
Sacramento, California 94229-2701

888 CalPERS (or **888-225-7377**)
www.calpers.ca.gov

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