

1 **SAMPLE ORDER (Revised 2/26/15)**
2 **PRE-RETIREMENT**
3 **NOT INTENDED AS LEGAL ADVICE**

4 Gov't. Code Sec. 31685, et seq.
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7
8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF MARIN
9

10 In re the Marriage of:

NO.

11 Petitioner:

**STIPULATION AND ORDER
FOR DIVISION OF PENSION
BENEFITS**

12 and

13 Respondent:
14 _____/

15 **IT IS HEREBY STIPULATED** as follows:

16 1. The Marin County Employees' Retirement Association ("Association") by and
17 through its Board is responsible for administering retirement plan benefits pursuant to Government
18 Code section 31450, et seq.

19 2. _____ ("Member") has earned certain retirement benefits
20 administered by the Association which are the community property of _____
21 ("Former Spouse") and Member. Member and Former Spouse intend, by this Stipulation and
22 Order, to divide and allocate these benefits between them in conformance with State law and with
23 the lawful provisions of the Association.

24 3. This Order is granted pursuant to the California Family code section 2610 of the
25 California Family Code.

26 4. Date of Marriage:

27 Date of Separation:

28 Date of Dissolution:

1 5. Pursuant to the provisions of Government Code section 31685, et seq., relating to the
2 division of retirement benefits incident to the dissolution of marriage or legal separation, the
3 accumulated contributions and service credit attributable to Member's period of service between the
4 date of marriage and the date of separation shall be divided into two separate and distinct accounts
5 in the names of Member and Former Spouse. Former spouse shall be entitled to e.g. 50%
6 of said service and contributions. All accumulated retirement contributions and service credit that
7 are not awarded to Former Spouse as community property shall be deemed the Member's sole and
8 separate property.

9 **(Note: Parties are to insert and describe the community interest division e.g., equally (50-50)**
10 **or give percentages of the community interest division of the marital community property.)**

11 6. After the establishment of separate accounts, the Former Spouse may be entitled to
12 rights permitted under section 31685, et seq. of the Government Code, including:

- 13 A. the right to a retirement allowance (including the right to elect an optional
14 form and to name a beneficiary);
- 15 B. the right to a refund of accumulated retirement contributions;
- 16 C. the right to redeposit accumulated retirement contributions attributable to
17 service during the period of the marriage which are eligible for redeposit by
18 the Member, if any, to the extent of the community interest assigned;
- 19 D. the right to purchase additional service credit earned during the period of the
20 marriage which is eligible for purchase by the Member, if any, to the extent
21 of the community interest assigned;
- 22 E. the right to designate a beneficiary to receive the accumulated contributions
23 payable where death occurs prior to retirement; and
- 24 F. the right to designate a beneficiary for any unpaid allowance payable at the
25 time of death of Former Spouse.

26 7. The Board of the Association shall determine the rights of Former Spouse taking
27 into account the court order and the account of the Member.

1 8. If Former Spouse exercises his/her option to receive a refund of accumulated
2 contributions and interest credited to such contributions, Former Spouse waives all rights to future
3 benefits after the effective date of such refund. No redeposit is allowed, and the refund cannot be
4 cancelled.

5 9. If Former Spouse does not elect to receive a refund, he/she may begin receiving
6 retirement benefits at any time after either Member or Former Spouse has reached the minimum
7 retirement age in Member's service retirement plan, provided that on the date of retirement, the
8 Member has sufficient credited service to retire for service, notwithstanding any service credit
9 awarded to the nonmember.

10 10. The Former Spouse shall not be entitled to file for a disability retirement allowance.
11 If the Member is granted a disability retirement allowance, the combined benefits to both Member
12 and former Spouse shall not exceed the amount that would otherwise be paid to the Member
13 alone.

14 11. Each party shall be responsible for and pay any taxes due in connection with his or
15 her receipt of distributions from the Association. Member hereby authorizes the Association to
16 release such information to Former Spouse as necessary so that each party may determine taxable
17 and non-taxable portions of any benefit paid by virtue of this Order.

18 12. The Association shall not be required by the terms of this Stipulation/Order: 1) to
19 provide any type or form of benefit or option not otherwise provided under Member's retirement
20 plan; 2) to increase the amount of any benefits provided under said plan; or 3) to suffer any
21 additional burden beyond the requirements specifically set forth in the County Retirement Act of
22 1937.

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

1 received by the Former spouse. The Former Spouse, as trustee, shall promptly pay or transmit any
2 such benefits to the Member at the member's last known address.

3 14. Attorneys' fees will not be sought against the Association (Civil Code section 4370),
4 and the parties hereto agree that the Association is a governmental entity within the meaning of that
5 section.

6 15. Both Member and Former Spouse shall keep the Association advised at all times of
7 that party's current mailing address, and shall supply the Association with such other information as
8 may be reasonably required by the Association in order to effect payment. Any notice required to
9 be given by the Association shall be deemed to have been delivered if sent to the current mailing
10 address, as updated by each party, by First Class Mail. The Association's current address is: One
11 McInnis Parkway, Suite 100, San Rafael CA 94903.

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

15 Member's Name: _____

16 Address: _____

17 Telephone Number: _____

18 Social Security Number: To be provided to MCERA upon submission of signed order.

19 Date of Birth: _____

20
21 Former Spouse's Name: _____

22 Address: _____

23 Telephone Number: _____

24 Social Security Number: To be provided to MCERA upon submission of signed order.

25 Date of Birth: _____

26 17. This court retains jurisdiction to make such further orders as appropriate to enforce
27 and clarify the provisions of this Order and to amend this Order so that its provisions are consistent
28 with the intent of the parties as expressed herein, and with the Association's requirements.

DATED:

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DATED:

Petitioner/Member
Petitioner is Self Represented

DATED:

Respondent/Former Spouse
Respondent is Self Represented

MARIN COUNTY EMPLOYEES' RETIREMENT
ASSOCIATION

By: _____
Michelle Hardesty
Assistant Retirement Administrator

ORDER

IT IS SO ORDERED.

DATED:

JUDGE OF THE SUPERIOR COURT