

1 SAN JOAQUIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION

2 MODEL DOMESTIC RELATIONS ORDER B

3 *[Applicable to A Dissolution of Marriage **AFTER** Retirement]*

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5
6 **CAUTION: YOU ARE HEREBY ADVISED TO SEEK COMPETENT LEGAL COUNSEL.**

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8 The disposition of retirement benefits in domestic relations proceedings involves
9 complex marital rights and tax issues.

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11 The San Joaquin County Employees' Retirement Association, its employees, agents
12 and consultants are not authorized to give legal advice and, therefore, make no
13 representation as to the model's sufficiency under applicable federal or state law or as
14 to its legal consequences under your particular fact and circumstances. You should
15 obtain the advice of your own legal counsel to create an appropriate court order for you.

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1 [NAME OF COUNSEL]
2 [ADDRESS OF COUNSEL]
3 [CITY, STATE]
4 [PHONE NUMBER]
5 ATTORNEY FOR [PETITIONER/RESPONDENT]

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF _____

10 In Re the Marriage of) Case No. _____
11 Petitioner: _____) **MODEL ORDER B**
12 and) STIPULATED DOMESTIC RELATIONS
13 Respondent: _____) ORDER RE: DIVISION OF SAN
14) JOAQUIN COUNTY EMPLOYEES'
15 _____) RETIREMENT BENEFITS

17 Petitioner, _____, and Respondent, _____,
18 hereby stipulate as follows:

19 **RECITALS**

20 1. Petitioner and Respondent were married to each other on
21 _____. They separated on _____, and this Court entered a
22 judgment of dissolution of marriage in the action on _____.

23 2. This Court has personal jurisdiction over both Petitioner and Respondent
24 and jurisdiction over the subject matter of this Order and the dissolution of marriage
25 action.

26

1 3. San Joaquin County Employees' Retirement Association (SJCERA) is
2 governed under the County Employees Retirement Law of 1937 (the '37 Act), which is
3 set forth at section 31450, et seq., of the Government Code and was properly joined as
4 a party to the Petitioner and Respondent's dissolution of marriage action pursuant to
5 sections 2060 through 2065 of the Family Code.

6
7 **IT IS HEREBY ORDERED BY THE COURT THAT:**

8 1. This Order is entered pursuant to the Family Code.

9 2. **[Respondent or Petitioner]** ("Member") and **[Respondent or Petitioner]**
10 ("Nonmember") have acquired a community interest in the Member's monthly retirement
11 benefits attributable to periods of service in SJCERA from the Date of Marriage up to
12 the Date of Separation or Date of Retirement, whichever occurred first.

13 3. The Member is currently receiving from SJCERA retirement benefits of \$
14 **[Enter amount]** a month under option **[Enter option selected at retirement]** with
15 **[Name of Beneficiary]** named as beneficiary for any benefits payable under such
16 option upon the Member's death. The member began receiving the retirement benefit
17 on (insert date) . The retirement benefits being received by Member are in the
18 form of a [Note, designate one of the following: service retirement, non-service
19 connected disability retirement or service connected disability retirement]. Upon the
20 dissolution of the marriage, the Nonmember ceases to qualify for unmodified survivor
21 benefits pursuant to section 31760.1 of the Government Code.

22 4. Calculation of Nonmember's Interest. The Court allocates and awards to
23 the Nonmember an interest in any and all of the Member's retirement benefits
24 calculated as follows: 50% of the monthly retirement benefits attributable to the
25 Member's service in SJCERA during the period from the Date of Marriage up to the
26 Date of Separation, or date of retirement, whichever occurred first, as the Nonmember's
27 sole and separate property.

1 [Note that if the Member is currently receiving a non-service connected disability
2 retirement or service connected disability retirement, add the following language: As the
3 Member is currently receiving a disability retirement benefit as specified in paragraph 3
4 above, at the time when the Member becomes first eligible for a service retirement, the
5 Retirement Administrator of SJCERA shall designate that portion of the disability benefit
6 which is attributable to a service retirement and allocate that portion of the benefit as
7 specified in this section. The total combined benefit payments to both the Member and
8 Non-Member shall not exceed the amount that would otherwise be paid to the member
9 alone.] All retirement benefits which are not awarded to the Nonmember pursuant to
10 this Order shall be the Member's sole and separate property.

11 5. Commencement of Benefits to the Nonmember. The Nonmember shall
12 commence to receive the Nonmember's monthly benefits by separate warrant directly
13 from SJCERA as soon as administratively practicable following the date the
14 Administrator receives this Order.

15 6. Benefits payable at Member's Death. The Member shall be responsible
16 for filing a Designation of Beneficiary form with SJCERA. Upon the Member's death,
17 SJCERA shall continue to pay to the Nonmember the Nonmember's monthly benefit
18 until the death of the Nonmember. Upon the Member's death, SJCERA shall pay by
19 separate warrant directly to the beneficiary designated by the Member, the balance of
20 any accumulated retirement contributions and interest remaining in the Member's
21 account, less the amount attributable to any payments to the Nonmember pursuant to
22 this Order, and any other benefits payable to that designated beneficiary, including but
23 not limited to the any applicable death benefit. If the Member designates Member's
24 minor children as beneficiary, then monthly survivor benefits may be payable pursuant
25 to section 31760.1 of the Government Code.

26 7. Benefits Payable at Nonmember's Death. The Nonmember shall be
27 responsible for filing a Designation of Beneficiary form with SJCERA. If benefits are still

1 payable to the Member at the time of the Nonmember's death, SJCERA shall continue
2 to pay the Nonmember's monthly benefit by separate warrant directly to the beneficiary
3 designated by the Nonmember. Said payments shall cease upon the death of the
4 Member.

5 8. The Nonmember's monthly benefit will be increased by all applicable cost-
6 of-living increases or other similar increases, but only to the extent permitted under the
7 '37 Act and the Bylaws of SJCERA.

8 9. The Member and the Nonmember shall be responsible for, and pay, any
9 taxes due in connection with his or her receipt of distributions from SJCERA.

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

14 Name: _____
15 Address: _____
16 Telephone No.: _____
17 Social Security Number: _____
18 Date of Birth: _____

19 11. Nonmember's Name: For the purpose of making any benefit payments
20 provided by the terms of this Order or providing any notice required by the terms of this
21 Order, Member's name, current mailing address, telephone number, Social Security
22 number and date of birth are as follows:

23 Name: _____
24 Address: _____
25 Telephone No.: _____
26 Social Security Number: _____
27 Date of Birth: _____

1 12. Notice of change of address or telephone number shall be made in writing
2 to SJCERA, addressed as follows, or as the Administrator of SJCERA may specify in a
3 written notice to Member and Nonmember:

4 San Joaquin County Employees' Retirement Association
5 6 South El Dorado Street, Suite 700
6 Stockton, California 95202

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

10 14. The Nonmember, the Nonmember's agents and attorneys are authorized
11 to receive information concerning the Member's benefits as may be needed to establish
12 the Nonmember's account.

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

21 16. This Order shall be administered and interpreted in conformity with the '37
22 Act and the Bylaws of SJCERA and other applicable law. If the '37 Act and/or the
23 Bylaws of SJCERA are amended, then Member and the Nonmember shall immediately
24 take the steps necessary to amend this Order to comply with any such amendments,
25 changes and/or modifications, or, if permissible under any such change, amendment, or
26 modification to the '37 Act and the Bylaws of SJCERA, the Administrator of SJCERA
27 may treat this Order as acceptable. The Member and the Nonmember shall be

1 responsible for any of the costs and/or expenses associated with such amendment to
2 this order.

3 17. The Member, the Nonmember, and the court intend that this Order meet
4 all requirements of a domestic relations order under the '37 Act and the Bylaws of
5 SJCERA and other laws of the State of California, and the Court shall reserve
6 jurisdiction to modify this Order and to resolve any disputes that may arise among the
7 parties and the Administrator of SJCERA concerning benefit payments or any other
8 aspect of this Order. If any portion of this Order is rendered invalid or otherwise
9 unenforceable, the Court reserves jurisdiction to make an appropriate adjustment to
10 effectuate the intent of the parties. Any future fees, taxes, and/or penalties will be
11 assessed against the parties who then have an interest payable from SJCERA.

12 18. This Stipulation and Order shall not expand the contractual or statutory
13 obligations, whether substantive or procedural, of San Joaquin County or the San
14 Joaquin County Employees' Retirement Association with respect to paying the above
15 benefits.

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17 **IT IS SO STIPULATED:**

18 Dated: _____ [NAME]
19 _____
Petitioner

20 Dated: _____ [NAME]
21 _____
Attorney for Petitioner

22 Dated: _____ [NAME]
23 _____
Respondent

24 Dated: _____ [NAME]
25 _____
Attorney for Respondent

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Approved as to form:

Dated: _____

[NAME]
San Joaquin County Employees'
Retirement Association

ORDER

The parties having stipulated thereto and good cause appearing therefore.

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT