

1 SAN JOAQUIN COUNTY EMPLOYEES' RETIREMENT ASSOCIATION
2 MODEL DOMESTIC RELATIONS ORDER A

3 *[Applicable to A Dissolution of Marriage **PRIOR** to Retirement]*
4

5
6 **CAUTION: YOU ARE HEREBY ADVISED TO SEEK COMPETENT LEGAL COUNSEL.**
7

8 The disposition of retirement benefits in domestic relations proceedings involves
9 complex marital rights and tax issues.
10

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 facts 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]
6

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 COUNTY OF _____
9

10 In Re the Marriage of) Case No. _____
11 Petitioner: _____) **MODEL ORDER A**
12 and) STIPULATED DOMESTIC RELATIONS
13 Respondent: _____) ORDER RE: DIVISION OF SAN
14) JOAQUIN COUNTY EMPLOYEES'
15 _____) RETIREMENT BENEFITS
16

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 3. San Joaquin County Employees' Retirement Association (SJCERA) is
27 governed by the County Employees Retirement Law of 1937 (the '37 Act), which is set

1 forth at section 31450, et seq., of the Government Code and was properly joined as a
2 party to the Petitioner and Respondent's dissolution of marriage action pursuant to
3 sections 2060 through 2065 of the Family Code.

4
5 **IT IS HEREBY ORDERED BY THE COURT THAT:**

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

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

11 3. Pursuant to section 31685 of the Government Code, the Court allocates
12 and awards to the Nonmember 50% of the accumulated retirement contributions and
13 service credit attributable to the Member's service in SJCERA during the period from the
14 Date of Marriage up to the Date of Separation ("SJCERA Interest") as the Nonmember's
15 sole and separate property. All accumulated retirement contributions and service credit
16 attributable to the Member's service in SJCERA which are not awarded to the
17 Nonmember pursuant to this order shall be the Member's sole and separate property.

18 4. Pursuant to section 31685 of the Government Code, the Retirement
19 Administrator of SJCERA ("Administrator") shall divide the Member's accumulated
20 retirement contributions and service credit in accordance with Paragraph 3 of this Order
21 and establish a separate and distinct account for the Nonmember as soon as
22 administratively practicable after Administrator receives this Order.

23 5. In light of section 31685.5(b) of the Government Code and notwithstanding
24 any other provision of this Order, if the Member does not have five years of
25 accumulated service credit as of the date of legal separation, the Nonmember shall
26 receive a refund of the accumulated retirement contributions and any interest that has
27 been credited to such contributions which have been transferred to the Nonmember's

1 account as soon as administratively practicable following the date an account was
2 established for the Nonmember pursuant to paragraph 4 of this Order.

3 6. From and after the date that the Administrator has divided the Member's
4 accumulated retirement contributions and service credit pursuant to Paragraph 4 of this
5 Order, the Nonmember shall be entitled to all applicable rights, with respect to the
6 nonmember's interest under paragraph 4, permitted under section 31685 (c) of the
7 Government Code, including:

8 (a) The right to a retirement allowance; subject to the provisions of
9 Article 8.4 of the Government Code, including but not limited to, sections 31685(d),
10 31685.5, 31685.6, 31685.7, 31685.8, 31685.9, 31685.95 and 31685.96 of the
11 Government Code.

12 (b) The right to a refund of accumulated retirement contributions,
13 subject to the provisions of section 31685.2 of the Government Code.

14 (c) The right to redeposit accumulated contributions that are eligible for
15 redeposit by the Member, to the extent of the Nonmember's interest therein, subject to
16 the provisions of section 31685.3 of the Government Code.

17 (d) The right to purchase service credit that is eligible for purchase by
18 the Member, to the extent of the Nonmember's interest therein, subject to the provisions
19 of section 31685.4 of the Government Code.

20 (e) The right to designate a beneficiary to receive his or her
21 accumulated contributions and any interest that has been credited to such contributions
22 where death occurs prior to retirement.

23 (f) The right to designate a beneficiary for any portion of the
24 Nonmember's SJCERA Interest which is payable at the time of his or her death.

25 7. If the Nonmember fails to designate a beneficiary pursuant to paragraph
26 6(e) or 6(f) of this Order, or the designated beneficiary does not survive the
27 Nonmember, any portion of the Nonmember's SJCERA Interest which is payable at the

1 time of his or her death shall be paid in accordance with section 31458.2 of the
2 Government Code.

3 8. The Nonmember's SJCERA Retirement Benefit will be increased by all
4 applicable interest, cost-of-living or other similar increases, but only to the extent
5 permitted under the '37 Act and the Bylaws of SJCERA.

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

8 10. The Member and Nonmember shall be responsible for filing Designation of
9 Beneficiary forms with the Administrator.

10 11. 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 12. 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 13. Notice of change of address or telephone number shall be made in writing
2 to SJCERA, addressed as follows, or as the Administrator may specify in a written
3 notice to Member and Nonmember:

4 San Joaquin County Employees' Retirement Association
5 6 South El Dorado Street, Suite 400
6 Stockton, California 95202

7 14. 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 15. The Nonmember, the Nonmember's agents and attorneys are authorized
11 to receive only essential information concerning the Member's benefits until such time
12 as the Nonmember has received the Nonmember's SJCERA Interest.

13 16. 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 17. 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 may treat this

1 Order as acceptable. The Member and the Nonmember shall be responsible for any of
2 the costs and/or expenses associated with such amendment to this order.

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

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

15
16 **IT IS SO STIPULATED:**

17 Dated: _____
18 [NAME]
19 Petitioner

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

23 Dated: _____
24 [NAME]
25 Respondent

26 Dated: _____
27 [NAME]
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