

**MODEL QDRO LANGUAGE FOR ACTIVE MEMBERS
OF THE RETIREMENT PLAN FOR
EMPLOYEES OF JOB SERVICE NORTH DAKOTA**

STATE OF NORTH DAKOTA IN DISTRICT COURT
COUNTY OF _____ JUDICIAL DISTRICT

_____,
Plaintiff,
vs. _____)
) QUALIFIED DOMESTIC
) RELATIONS ORDER
)
_____,
Defendant)
) Case No.: _____
)
)
)

.....

This Order is intended to meet the requirements of a "Qualified Domestic Relations Order" relating to the Retirement Plan for employees of Job Service North Dakota, hereafter referred to as the "Plan." The Order is an integral part of the judgment entered on **[DATE OF DIVORCE]** granting a divorce to the above-entitled parties. [This Order is also drawn pursuant to the laws of state in which the divorce occurred relating to the equitable distribution of marital property between spouses and former spouses in actions for dissolution of a marriage.] **[OR]** [This Order is drawn pursuant to the laws of state in which the divorce occurred relating to the provision of child support to a minor child in actions for dissolution of a marriage.]

BACKGROUND INFORMATION

[MEMBER'S NAME AND SOCIAL SECURITY NUMBER] is the participating member whose last known address is **[MEMBER'S ADDRESS]**. The member's date of birth is **[MEMBER'S D.O.B.]**.

[ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER] is the alternate payee whose last known address is **[ALTERNATE PAYEE'S ADDRESS]**. The alternate payee's date of birth is **[ALTERNATE PAYEE'S D.O.B.]**.

1 The participating member and the alternate payee were married on **DATE OF**
2 **MARRIAGE**.

3
4 IT IS HEREBY ORDERED THAT:

5 **I. BENEFITS**

6
7 NOTE: (Distribution of benefits must be based on the member's accrued monthly benefit as
8 opposed to the member's account balance or other estimate. The member's accrued
9 monthly benefit can be obtained by contacting the personnel office of North Dakota Public
10 Employees Retirement System (NDPERS). Please notify NDPERS staff that this information
11 will be used for the purpose of preparing a domestic relations order.)

12 Benefits under the Plan are distributed as follows: (Choose one)

- 13 1. The alternate payee is awarded [%] of the member's accrued monthly annuity
14 benefit of [\$] as of **DATE OF DIVORCE**. **[OR]**
15 2. The alternate payee is awarded [\$] of the member's accrued monthly annuity
16 benefit of [\$] as of **DATE OF DIVORCE**.

17 **II. TIME OF BENEFIT RECEIPT**

18 Benefits payments to the alternate payee will begin when the participating member retires.

19 **III. DURATION OF PAYMENTS TO ALTERNATE PAYEE** (Choose one)

- 20 A. The payments shall be made to the alternate payee on a monthly basis over the life of
21 the alternate payee and calculated on the basis of a 10-year guarantee. Upon the
22 alternate payee's death, if the alternate payee has not received 120 monthly payments,
23 the balance of the 120 monthly payments will be paid to the alternate payee's
24 designated beneficiary on a monthly basis. Cost-of-living adjustments as provided for in
25 the Plan will be granted to the alternate payee and the alternate payee's designated
beneficiary. **[OR]**

1 B. The payments shall be made to the alternate payee on a monthly basis over the life of
2 the alternate payee and calculated on the basis of a 15-year guarantee. Upon the
3 alternate payee's death, if the alternate payee has not received 180 monthly payments,
4 the balance of the 180 monthly payments will be paid to the alternate payee's
5 designated beneficiary on a monthly basis. Cost-of-living adjustments as provided for in
6 the Plan will be granted to the alternate payee and the alternate payee's designated
7 beneficiary. **[OR]**

8 C. The payments shall be made to the alternate payee on a monthly basis over the life of
9 the alternate payee and calculated on the basis of a 20-year guarantee. Upon the
10 alternate payee's death, if the alternate payee has not received 240 monthly payments,
11 the balance of the 240 monthly payments will be paid to the alternate payee's
12 designated beneficiary on a monthly basis. Cost-of-living adjustments as provided for in
13 the Plan will be granted to the alternate payee and the alternate payee's designated
14 beneficiary. **[OR]**

15 D. The payments shall be made to the alternate payee on a monthly basis over the life of
16 the alternate payee and calculated on the basis of a straight life form of payment. Upon
17 the alternate payee's death, no further payments will be made. Cost-of-living
18 adjustments as provided for in the Plan will be granted to the alternate payee.

19 **IV. MEMBER WITHDRAWS FROM RETIREMENT SYSTEM (Choose one)**

20 A. If the participating member discontinues employment and withdraws the member
21 account in a lump sum, the alternate payee shall receive [_____] of the member's
22 account balance as of **[DATE OF DIVORCE]** accumulated with interest as required by
23 the Plan from the divorce date until the refund is paid. **[OR]**

24 B. If the participating member discontinues employment and withdraws the member
25 account in a lump sum, the alternate payee shall receive [\$______] of the member's
account balance as of **[DATE OF DIVORCE]** accumulated with interest as required by
the Plan from the divorce date until the refund is paid. (Note: the dollar amount in this
option cannot exceed the member's account balance.)

1 **V. LIMITATIONS OF THIS ORDER** (Order must reflect all provisions of this Section).

2
3 A. This Order recognizes the existence of the right of the alternate payee to receive all or a
4 portion of the benefits payable to the participating member as indicated above.

5 B. Nothing contained in this Order shall be construed to require any Plan or Plan
6 administrator:

7 1. To provide to the alternate payee any type or form of benefit or any option not
8 otherwise available to the participating member under the Plan.

9 2. To provide the alternate payee benefits, as determined on the basis of actuarial
10 value, not available to the participating member.

11 3. To pay any benefits to the alternate payee which are required to be paid to another
12 alternate payee under another order previously determined by the Plan administrator
13 to be a qualified domestic relations order.

14 4. To apply the provisions of this Order to disability benefits that the participating
15 member may be entitled to receive.

16 C. If the alternate payee dies prior to receipt of benefits under this Order, the alternate
17 payee's estate will receive a lump sum payment of [____%] of the participating
18 member's account balance as of **DATE OF DIVORCE** plus interest until the refund is
19 paid.

20 D. If the participating member dies prior to retiring, the alternate payee will begin receiving
21 the monthly benefits in Section I of this Order for the duration of time prescribed in
22 Section III of this Order.

23 E. The benefit enhancements provided by the Plan for service prior to the date of divorce
24 prescribed in Article I of this Order, which are adopted after that date, apply to the
25 alternate payee's portion of benefits under this Order.

26 F. If the participating member or alternate payee receive any distribution that should not
27 have been paid per this Order, the participating member or alternate payee is
28 designated a constructive trustee for the amount received and shall immediately notify
29 NDPERS and comply with written instructions as to the distribution of the amount
30 received.

31 G. Alternate payee is ORDERED to report any payments received on any applicable
32 income tax return in accordance with Internal Revenue Code provisions or regulations in
33 effect at the time any payments are authorized by NDPERS. The Plan is authorized to

1 issue Form 1099R, or other applicable form on any direct payment made to alternate
2 payee. The participating member and alternate payee must comply with the Internal
Revenue Code and any applicable regulations.

3 H. Alternate payee is ORDERED to provide NDPERS prompt written notification of any
4 changes in alternate payee's mailing address. NDPERS shall not be liable for failing to
5 make payments to alternate payee if NDPERS does not have a current mailing address
for alternate payee at time of payment.

6 I. Alternate payee shall furnish a certified copy of this Order to NDPERS.

7 J. The Court retains jurisdiction to amend this Order so that it will constitute a qualified
8 domestic relations order under the Plan even though all other matters incident to this
9 action or proceeding have been fully and finally adjudicated. If NDPERS determines at
10 any time that changes in the law, the administration of the Plan, or any other
11 circumstances make it impossible to calculate the portion of a distribution awarded to
alternate payee by this Order and so notifies the parties, either or both parties shall
immediately petition the Court for reformation of the Order.

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13 SIGNED this _____ date of _____, 20__.

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17 JUDGE PRESIDING
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