

Sample Court Order

Bracketed items indicate information to be completed or specified.

1 [YOUR NAME]
 2 [Street Address]
 3 [City, ST Zip]
 4 [Phone Number (with area code)]
 5 [Email Address (if applicable)]

6
7 Self-Represented

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 10 COUNTY OF [_____]

11
 12 [NAME OF PETITIONER],) Case No.: [_____]
 13 Petitioner,) DOMESTIC RELATIONS ORDER RE: LOS
 14) ANGELES COUNTY EMPLOYEES RETIREMENT
 15) ASSOCIATION (LACERA)
 16 v.)
 17 [NAME OF RESPONDENT],)
 18 Respondent)
 19)
 20)
 21)

Specify one

IT IS HEREBY ORDERED BY THIS COURT as follows:

- 23 1. The Petitioner and Respondent [were married OR registered their domestic
 24 partnership] on [DATE] and separated on [DATE]. The Judgment of Dissolution of
 25 [Marriage OR Legal Separation OR Domestic Partnership] became final on [DATE].
- 26 2. This Court has personal jurisdiction over both Petitioner and Respondent, and
 27 jurisdiction over the subject matter of this dissolution matter.
- 28 3. The Los Angeles County Employees Retirement Association, hereinafter referred to
 29 as "LACERA," was joined as a claimant employee pension benefit plan on [DATE]
 30 pursuant to Family Code Section 2060 et. seq. LACERA is a governmental plan and is
 31 therefore exempt from the provisions of the Employee Retirement Income Security
 Act that relate to Qualified Domestic Relations Orders.

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4. Identification of the Parties:

A. Member: [NAME], is hereinafter referred to as "Member." Member's date of birth, current mailing address, and Social Security number shall be provided separately to LACERA.

B. Non-Member: [NAME] is hereinafter referred to as "Non-Member." Non-Member's date of birth, current mailing address, and Social Security number shall be provided separately to LACERA.

Specify one

5. After final dissolution of [marriage OR legal separation OR domestic partnership], LACERA is ordered to pay directly to Non-Member, when benefit payments commence to Member, a percentage of the retirement allowance otherwise payable to Member, calculated by a formula as follows:

$$\begin{array}{l} \text{Non-member's allocated} \\ \text{monthly retirement} \\ \text{benefit allowance} \end{array} = \frac{\begin{array}{l} \text{No. months LACERA} \\ \text{service between marriage} \\ \text{date and separation date} \\ \text{No. months LACERA} \\ \text{service at retirement} \end{array}}{\begin{array}{l} \text{No. months LACERA} \\ \text{service at retirement} \end{array}} \times 50\% \times \begin{array}{l} \text{Member's retirement} \\ \text{allowance} \end{array}$$

6. To the extent Member receives a disability retirement benefit, the community property interest in Member's disability retirement benefit shall not exceed the amount that would otherwise be payable as a service retirement allowance. Any amount in excess of the service retirement amount is and remains Member's sole and separate property.

7. If Member receives a disability retirement benefit, the tax benefit related to member's disability shall be the separate property of the Member. (See *In re Marriage of Higinbotham* (1988) 203 Cal.App.3d 322.) Any benefits paid to Non-Member, including a community property share of Member's disability retirement benefit, under a domestic relations order shall be taxable to the Non-Member. To the extent possible, Non-Member's share of retirement benefits shall come from the taxable portion of Member's retirement benefits.

8. Except as may be noted herein below, Non-Member's community property share of Member's retirement allowance shall terminate upon the death of Member.

9. If Member leaves an eligible surviving spouse as a result of Member's death, Non-Member shall be entitled to receive [his/her] community property share, as described in paragraph 5 herein, of the survivor's allowance. Benefits paid to Non-Member are based on the benefit election made by the eligible surviving spouse. Non-Member's

To specify an alternate Option 4 retirement provision, as explained on page 18, replace with Sample Language A (page 25) or B (page 26).

1 share shall terminate upon the death of the surviving spouse. (See *In re Marriage of*
 2 *Carnall* [1989] 216 Cal.App.3d 1010.) Non-Member recognizes the right to any portion
 3 of the survivor's allowance shall be based on the lifetime of the eligible surviving
 4 spouse.

- 5 10. If Member withdraws [his/her] accumulated contributions, Non-Member
 6 shall be entitled to receive [his/her] community property share of the
 7 accumulated contributions at the time Member receives [his/hers]. Member hereby
 8 names Non-Member as beneficiary for the community property share of the
 9 accumulated contributions.
- 10 11. If any return of accumulated contributions becomes payable as a result of the death
 11 of Member, Non-Member is entitled to [his/her] community property share of the
 12 accumulated contributions. Member hereby names Non-Member as beneficiary for
 13 the community property share of the accumulated contributions.
- 14 12. If Non-Member predeceases Member, any benefits otherwise payable to Non-Member
 15 by LACERA, including benefits paid to a surviving spouse, shall be paid to Non-
 16 Member's designated beneficiaries or, if none, to Non-Member's estate.
- 17 13. In the event survivorship allowances or survivorship benefits not herein described
 18 become payable by LACERA at the death of Member, the Court reserves jurisdiction
 19 to make appropriate orders under these circumstances to the extent allowable under
 20 existing law at that time.
- 21 14. In the event LACERA inadvertently or otherwise pays to any party, including a
 22 qualified surviving spouse or other beneficiary, any benefits assigned to another
 23 party under this or a subsequent order, the party receiving such excess benefits shall
 24 be deemed a constructive trustee of said amounts.
- 25 15. Non-Member is ordered to keep [his/her] current address and proof of Social Security
 26 number on file with LACERA.
- 27 16. In the event LACERA does not approve the form of this Order, each party shall
 28 cooperate and do all things reasonable necessary to devise a form of Order acceptable
 29 to LACERA.
- 30 17. Nothing contained in this Order shall be construed to require LACERA:
 31 A. To provide to Non-Member any type or form of benefit or any option not
 otherwise available to Member under the plan; or
- B. To pay any benefits to Non-Member that are required to be paid to another non-
 member spouse under court order; or
- C. To make any payments in any manner that will result in an increase in the

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amount of benefits provided by the plan.

18. The Court reserves jurisdiction to enforce, revise, modify, or amend this Order, provided neither this Order nor any subsequent revision, modification, or amendment shall require LACERA to provide any form or amount of benefits not otherwise provided by LACERA.

[19.]

Non-California domestic relations orders must include paragraph 19 language on page 27.

Dated: _____

[NAME], Petitioner

Dated: _____

[NAME], Respondent

IT IS SO ORDERED:

Dated: _____

JUDGE OF THE SUPERIOR COURT