	SAMPLE ORDER RE GOVERNMEN CODE SECTION 31760 - Revised August 2
	StanCERA Member is assumed to be Member in this Sample
	Note: Please replace bold language with appropriate party or pronoun and omit fn. 1 or para. 8 as needed
SUPERIOR COURT OF CALI	FORNIA, COUNTY OF STANISLAUS
In re the Marriage of:)Case No.:
Petitioner,	 STIPULATION AND ORDER FOR MODIFICATION OF JUDGMENT RE: StanCERA RETIREMENT BENEFITS UNDER GOVERNMENT CODE SECTION
and) 31760
Respondent:)))
Claimant:)
STANISLAUS COUNTY EMPLOYEES' RETIREMENT ASSOCIATION (StanCERA).))))
Member	(hereinafter "Member") and Non-Membe
(hereinafter	"Non-Member") and the Stanislaus County
Employees' Retirement Association (her follows:	einafter "StanCERA") hereby stipulate as
<u>R</u>	ECITALS
1. Member and Non-Member	were married to each other on
They separated on, a	and this Court entered a judgment of dissoluti
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2. This Court has personal jurisdiction over both Member and Non-Member and jurisdiction over the subject matter of this Order and the dissolution of marriage action.

3. StanCERA was properly joined as a party to the dissolution of marriage action of Member and Non-Member pursuant to sections 2060 through 2065 of the California Family Code.

STIPULATION

Member is/was currently [formerly] employed by the County of Stanislaus
 [or name of appropriate employer] and has a vested right to a service pension from
 StanCERA. Said service pension is the community property of Member and Non Member, who intend, by this Stipulation and Order, to divide and allocate said service
 pension benefits between them.

2. This Order is acceptable under the County Employees Retirement Law of 1937, which is set forth in Section 31450 et seq., of the Government Code. StanCERA is a "governmental plan" as defined by 29 U.S.C. § 1002(32) and is, therefore, statutorily exempt from the provisions of the Employee Retirement Income Security Act (ERISA) 29 U.S.C. § 1001, et seq., as amended by the Retirement Equity Act of 1984 (REA) which govern "Qualified Domestic Relations Orders" ("QDRO's"). See 29 U.S.C. § 1003 (b)(1). Therefore, any order directed to StanCERA in the instant case should not be referred to as a "Qualified Domestic Relations Order," nor should it require StanCERA to comply with any provisions of ERISA or REA, or any other provisions of law applicable to Qualified Domestic Relations Orders generally.

3.

This Order is granted pursuant to California Family Code § 2610.

4. StanCERA shall pay directly to Non-Member upon the retirement of Member a percentage of the retirement allowance otherwise payable to Member calculated by the formula as follows:

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Non-Member's Number of months of 1 allocated monthly StanCERA service benefit between marriage Х 50% Member's 2 Х = date & separation date retirement Number of months of allowance 3 StanCERA service at retirement of Member 4 5 6 (a) To the extent Member receives a disability retirement benefit, the 7 community property interest in the Member's disability retirement benefit shall not 8 exceed the amount that would otherwise be payable as a service retirement allowance. 9 Any amount in excess of the service allowance amount is and remains Member's sole 10 and separate property. 11 (b) Non-Member's community share shall terminate upon the death of 12 Member. 13 5. In the event StanCERA inadvertently or otherwise pays to Member (or 14 Member's designated beneficiary or Non-member) any benefits that are assigned to 15 Non-member (or Member/Member's designated beneficiary, respectively) hereunder, 16 Member (or Member's designated beneficiary or Non-member, respectively) shall be 17 deemed a constructive trustee of said amounts. 18 6. If any return of accumulated contributions becomes payable as the result 19 of the death of Member, the Non-Member is entitled to the community property share of 20 the accumulated contributions. 21 7. If Member withdraws his/her accumulated contributions, Non-Member 22 shall be entitled to receive, at the time Member receives his/her accumulated 23 contributions, Non-Member's community property share of the accumulated 24 contributions. 25 111 26 111 27 111 28 111 -3-

8. If Member is married to an eligible surviving spouse¹ on Member's date of retirement, Member shall elect the "Unmodified Option" under the Plan, and name such eligible spouse as beneficiary for the surviving spousal continuance under this option. Non-Member shall receive Non-Member's community property interest in any surviving spousal continuance, pursuant to the calculation described above in paragraph 4. His/her share shall terminate upon the death of the surviving spouse. (See In re Marriage of Carnall (1989) 216 Cal.App.3d 1010.) Non-Member recognizes that the right to any portion of the survivor's allowance shall be based on the lifetime of the eligible surviving spouse.

10 9. If Non-Member predeceases Member, any benefits otherwise payable to 11 Non-Member by StanCERA, including benefits paid to a surviving spouse, shall be paid 12 to Non-Member's named beneficiary or estate, pursuant to *In re Marriage of Powers* 13 (1990) 218 Cal.App.3d 626.

14 10. Member and Non-Member shall each keep his/her current address and phone number on file with StanCERA.

11. Member's name, current mailing address, phone number, Social Security number and date of birth are:

18 Name: 19 Address: 20 21 Phone: 22 SSN: to be provided to StanCERA under separate cover 23 Date of Birth: 24 25 26 Generally, an eligible surviving spouse is a spouse to whom the Member has been married one year prior to retirement. The Non-Member is not an eligible spouse pursuant to In re Marriage of Cramer 27 (1993) 20 Cal.App.4th 73. 28 -4-

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12. Non-Member's name, current mailing address, phone number, Social 1 2 Security number and date of birth are: 3 Name: 4 Address: 5 6 Phone: 7 SSN: to be provided to StanCERA under separate cover 8 Date of Birth: 9 In the event that StanCERA does not approve the form of this Order, then 13. 10 each party shall cooperate and do all things reasonably necessary to devise a form of 11 Order acceptable to StanCERA. 12 14. Each party shall be responsible for and pay any taxes due in connection 13 with his or her (or its, if Non-Member's estate or designated beneficiary is receiving 14 benefits due to Non-Member predeceasing Member) receipt of distributions from 15 StanCERA. Member hereby authorizes StanCERA to release such information to 16 Non-Member so that each party may determine the taxable and non-taxable portions 17 of any benefit paid by virtue of this Order. 18 Each party shall perform any act, which is reasonably necessary to 15. 19 carry into effect the terms of this Order including, but not limited to, the names of 20 In addition, Member and Non-Member shall execute and deliver to beneficiaries. 21 StanCERA, at StanCERA's request, any and all necessary documents including, but 22 not limited to, the appropriate tax withholding documents, as may be required by 23 StanCERA. 24 16. This Order shall continue to be effective with respect to any successor or 25 transferee plan of StanCERA, including any plan into which StanCERA is merged. 26 111 27 111 28

1	17. This Stipulation and Order shall not place any additional burden upon			
2	StanCERA beyond the requirements of the County Employees Retirement Law of 1937			
3	18. Nothing contained in this Order shall be construed to require StanCERA:			
4		(a) To provide Non-Member any type or form of benefit or any option		
5	not otherwise available to Member under the Plan;			
6	(b) To provide Non-Member increased benefits not available to			
7	Member; and			
8		(c) To pay any benefits to Non-Member, which are required to be paid		
9	to another N	Ion-Member spouse under a separate court order.		
10	19. The Court shall expressly reserve jurisdiction over the disposition of the			
11	retirement benefits earned by virtue of Member's employment with the County of			
12	Stanislaus [or name of appropriate employer] and to make all necessary and			
13	appropriate orders regarding those benefits pursuant to applicable law. The Court shall			
14	further reserve jurisdiction to make such orders that are appropriate to enforce and			
15	clarify the provisions of this Stipulation and Order. Finally, the Court shall reserve			
16	jurisdiction to amend this Order so that its provisions are consistent with the intent of the			
17	parties as expressed herein and with StanCERA's requirements.			
18	DATED:			
19		Petitioner		
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22		Respondent		
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25		Attorney for Petitioner		
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28		Attorney for Respondent		
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	STIPULATION AND ORDER FOR MODIFICATION OF JUDGMENT			

1	DATED:	
2		Benefits Manager Stanislaus County Employees'
3		Retirement Association
4	APPROVED AS TO FORM:	
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6	DATED:	General Legal Counsel
7		Attorney for Stanislaus County Employees' Retirement
8		Association
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10 11		
11	IT IS SO ORDERED:	ORDER
12	DATED:	
13		Judge of the Superior Court
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	STIPULATION AND C	RDER FOR MODIFICATION OF JUDGMENT