

SAMPLE RETIRED MEMBER ORDER

Revised August 2018

StanCERA Member is assumed to be Member in this Sample

Please delete bold language within [] in document before finalizing

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS

In re the Marriage of:)	Case No.:
)	
Petitioner,)	STIPULATION AND ORDER FOR
)	DIVISION OF PENSION BENEFITS RE:
)	STANISLAUS COUNTY EMPLOYEES'
)	RETIREMENT ASSOCIATION
and)	
)	(Retired Member)
Respondent:)	
)	
)	
Claimant:)	
)	
STANISLAUS COUNTY)	
EMPLOYEES' RETIREMENT)	
ASSOCIATION (StanCERA).)	
)	
)	

Member _____ (hereinafter "Member") and Non-Member _____ (hereinafter "Non-Member") and the Stanislaus County Employees' Retirement Association (hereinafter "StanCERA") hereby stipulate as follows:

RECITALS

1. Member and Non-Member were married to each other on _____. They separated on _____, and this Court entered a judgment of dissolution in this action on _____.

1 2. This Court has personal jurisdiction over both Member and Non-Member
2 and jurisdiction over the subject matter of this Order and the dissolution of marriage
3 action.

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

7 **STIPULATION**

8 1. Member has earned certain retirement benefits administered by
9 StanCERA pursuant to employment with the County of Stanislaus [**or name of**
10 **appropriate employer**], which are the community property of Member and
11 Non-Member. Member and Non-Member intend, by this Stipulation and Order,
12 to divide and allocate these benefits between them.

13 2. This Order is acceptable under the County Employees Retirement Law of
14 1937, which is set forth in Section 31450 et seq., of the Government Code. StanCERA
15 is a "governmental plan" as defined by 29 U.S.C. § 1002(32) and is, therefore,
16 statutorily exempt from the provisions of the Employee Retirement Income Security Act
17 (ERISA) 29 U.S.C. § 1001, et seq., as amended by the Retirement Equity Act of 1984
18 (REA) which govern "Qualified Domestic Relations Orders" ("QDRO's"). See 29 U.S.C.
19 § 1003 (b)(1). Therefore, any order directed to StanCERA in the instant case should
20 not be referred to as a "Qualified Domestic Relations Order," nor should it require
21 StanCERA to comply with any provisions of ERISA or REA, or any other provisions of
22 law applicable to Qualified Domestic Relations Orders generally.

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

24 4. StanCERA shall pay directly to Non-Member from and after [**the date of**
25 **this Order OR the date that StanCERA was joined as a party herein**] _____% of
26 the retirement allowance, and any cost of living adjustments otherwise payable to
27 Member.
28

1 5. If Member predeceases Non-Member, Non-Member's community share
2 shall terminate upon the death of Member.

3 6. If Non-Member predeceases Member, the portion of Member's benefit
4 payable to Non-Member under Paragraph 4 above shall continue to be paid to Non-
5 Member's designated beneficiary or estate **[or revert back to the member]** during
6 Member's lifetime.

7 7. In the event StanCERA inadvertently or otherwise pays to Member (or
8 Member's designated beneficiary or Non-member) any benefits that are assigned to
9 Non-member (or Member/Member's designated beneficiary, respectively) hereunder,
10 Member (or Member's designated beneficiary or Non-member, respectively) shall be
11 deemed a constructive trustee of said amounts.

12 8. 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 9. Each party shall perform any act, which is reasonably necessary to
19 carry into effect the terms of this Order including, but not limited to, the names of
20 beneficiaries. In addition, Member and Non-Member shall execute and deliver to
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 10. 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.

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27 ///

1 11. 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 12. Member and Non-Member shall each keep **his/her** current address and
4 phone number on file with StanCERA.

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

7 Name: _____

8 Address: _____

9 _____

10 Phone: _____

11 SSN: *to be provided to StanCERA under separate cover*

12 Date of Birth: _____

13 14. Non-Member's name, current mailing address, phone number, Social
14 Security number and date of birth are:

15 Name: _____

16 Address: _____

17 _____

18 Phone: _____

19 SSN: *to be provided to StanCERA under separate cover*

20 Date of Birth: _____

21 15. Nothing contained in this Order shall be construed to require StanCERA:

22 (a) To provide Non-Member any type or form of benefit or any option
23 not otherwise available to Member under the Plan;

24 (b) To provide Non-Member increased benefits not available to
25 Member; and

26 ///

1 (c) To pay any benefits to Non-Member, which are required to be paid
2 to another Non-Member spouse under a separate court order.

3 16. The Court shall expressly reserve jurisdiction over the disposition of the
4 retirement benefits earned by virtue of Member's employment with the County of
5 Stanislaus **[or name appropriate employer]** and to make all necessary and
6 appropriate orders regarding those benefits pursuant to applicable law. The Court shall
7 further reserve jurisdiction to make such orders that are appropriate to enforce and
8 clarify the provisions of this Stipulation and Order. Finally, the Court shall reserve
9 jurisdiction to amend this Order so that its provisions are consistent with the intent of the
10 parties as expressed herein and with StanCERA's requirements.

11 DATED: _____
12 _____
13 Petitioner

14 DATED: _____
15 _____
16 Respondent

17 DATED: _____
18 _____
19 Attorney for Petitioner

20 DATED: _____
21 _____
22 Attorney for Respondent

23 DATED: _____
24 _____
25 Benefits Manager
26 Stanislaus County Employees'
27 Retirement Association

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APPROVED AS TO FORM:

DATED: _____

General Legal Counsel
Attorney for Stanislaus County
Employees' Retirement
Association

ORDER

IT IS SO ORDERED:

DATED: _____

Judge of the Superior Court