

MODEL EQUITABLE DISTRIBUTION ORDER

THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM OF NORTH CAROLINA

This Model Order Has Been Prepared to Assist in Drafting Equitable Distribution Orders Involving Benefits Payable by the Consolidated Judicial Retirement System of North Carolina, a Governmental Plan That Is *Not* Subject to ERISA. *See* 26 U.S.C. § 414(d) and 29 U.S.C. § 1002(32). The Provisions of this Model Order Are Not Mandatory. They Are Provided as Examples of Provisions Consistent with the Statutes Governing the Retirement System and Administerable by the System. Parties Are Strongly Encouraged to Submit Proposed Equitable Distribution Orders to the Retirement System for Approval Prior to Submission to the Court. Parties Should Allow at Least 4-6 Weeks for a Response.

The Consolidated Judicial Retirement System of North Carolina
325 North Salisbury Street
Raleigh, North Carolina 27603-1385

STATE OF NORTH CAROLINA
COUNTY OF _____

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION
___ CVD _____

_____,)
Plaintiff,)
)
v.)
_____,)
Defendant.)

DOMESTIC RELATIONS ORDER
(Consolidated Judicial
Retirement System)

THIS MATTER coming on for hearing before the Honorable _____,
District Court Judge presiding, in the civil District Court for _____ County, North
Carolina;

AND IT APPEARING to the Court that an equitable distribution judgment has been
entered in this action [OR: the parties have agreed to the entry of this Consent Domestic
Relations Order] concerning distribution of **plaintiff's/defendant's** interest in benefits payable
by the Consolidated Judicial Retirement System of North Carolina;

NOW, THEN, the Court makes the following:

FINDINGS OF FACT

1. That the parties were formerly husband and wife, having separated
_____, 2_____, and are now divorced.
2. That an action seeking an equitable distribution of the parties' marital property
pursuant to G.S. 50-20 was filed, and a judgment dividing said property has been entered by the
Court. [OR: That parties have agreed to the entry of a Consent Domestic Relations Order
regarding the division of benefits in a pension plan containing marital property.]
3. That at the time of the parties' separation, **plaintiff/defendant**, [name] _____,
(redacted) Social Security number xxx-xx-_____, was a member of the Consolidated Judicial
Retirement System of North Carolina (hereinafter "the Retirement System"), having at least five
years of creditable service with the Retirement System. **His/Her** last known address is
_____.

4. This Order recognizes **plaintiff's/defendant's** (hereinafter the non-member ex-spouse) marital interest in the benefits payable by the Retirement System to **plaintiff/defendant** (hereinafter the member). The marital interest of the non-member ex-spouse in the member's benefits payable by the Retirement System shall be calculated as follows: fifty per cent (50%) **[or _____ per cent (____%)]** of the amount determined by multiplying the member's total benefit by a fraction, the numerator of which shall be the total months of creditable service earned during the marriage, including creditable service purchased during the marriage, or _____ months, and the denominator of which shall be the member's total number of months of creditable service at the time of retirement or of a withdrawal of accumulated contributions.

5. The formula set forth in Finding of Fact 4 shall be applied to all retirement benefits payable to the member or to **his/her** designated survivor(s) under any option contained in G.S. 135-5(g), should the member choose such an option pursuant to G.S. 135-61, or to any survivor benefit or return of accumulated contributions payable pursuant to G.S. 135-63 or 64.

OR

4. This Order recognizes **plaintiff's/defendant's** (hereinafter the non-member ex-spouse) marital interest in the benefits payable by the Retirement System to **plaintiff/defendant** (hereinafter the member). The marital interest of the non-member ex-spouse in the member's benefits payable by the Retirement System shall be calculated as follows: fifty per cent (50%) **[or _____ per cent (____%)]** of the benefit to which the member would be entitled upon reaching the earliest date **he/she** would be eligible to receive an unreduced benefit, assuming the member had terminated employment as of the date of separation, said benefit being "\$ **x**."

5. Should a return of contributions become payable pursuant to G.S. 135-63, then the non-member ex-spouse shall be paid 50% **[or _____%]** of the member's accumulated contributions as of the date of separation, or "\$ **x**," plus accrued interest payable as applicable.

OR

Any other method of calculation agreeable to the parties or the Court that is sufficiently specific and that applies to retirement benefits as well as to a return of contributions.

WHEREFORE, based upon the foregoing Findings of Fact, the Court concludes as a matter of law that the non-member ex-spouse is entitled to the entry of an Order directing the distribution, in the manner set forth, to **him/her** of **his/her** marital share of a portion of all benefits payable by the Retirement System to the member.

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED:

1. The term "member" refers to **plaintiff/defendant** herein, and the term "non-member ex-spouse" refers to **plaintiff/defendant** herein.

2. That the name, last known mailing address, redacted social security number (xxx-xx-____), and date of birth of the member are: _____.

3. That the name, last known mailing address, redacted social security number (xxx-xx-____), and date of birth of the non-member ex-spouse are:
_____.

4. That the name and mailing address of the Retirement System to which this Order is directed are: The Consolidated Judicial Retirement System of North Carolina, Retirement Systems Division, Department of State Treasurer, 325 North Salisbury Street, Raleigh, North Carolina, 27603-1388.

5. The Retirement System shall distribute to the non-member ex-spouse a portion of the member's benefits payable by the Retirement System, calculated pursuant to the provisions of **Findings of Fact 4 and 5** of this order. In the event that a return of accumulated contributions becomes payable pursuant to G.S. 135-63 or G.S. 135-5(g1), the Retirement System shall distribute to the non-member ex-spouse **his/her** marital share of such a return of accumulated contributions, calculated pursuant to the provisions of **Finding of Fact 5** of this order.

6. The non-member ex-spouse shall receive **his/her** share of the member's retirement benefits at such time and in such payment form as said benefits are paid to the member.

7. In the event that the non-member ex-spouse predeceases the member or the member's designated survivor for a retirement benefit, if any, the non-member ex-spouse's marital share of the member's retirement benefits shall be paid to such person or persons as are named in the non-member ex-spouse's will, or in the absence of any such designation, to **his/her** heirs by intestate succession.

8. Nothing in this Order shall be construed to require the Retirement System to provide to the non-member ex-spouse any type or form of benefit or any option not otherwise available to the member.

9. A copy of this Order shall be served upon the Administrator of the Consolidated Judicial Retirement System of North Carolina, and the Administrator shall determine, within a reasonable period of time, whether this Order can be administered by the Retirement System. This Order shall take effect immediately and shall remain in effect until further orders of this Court. Until this Order is accepted by the Retirement System, this Court retains jurisdiction to modify this Order as may be required or necessary.

This the _____ day of _____, 2__.

District Court Judge Presiding