

**MODEL EQUITABLE
DISTRIBUTION ORDER**

**THE SUPPLEMENTAL RETIREMENT
INCOME PLAN OF NORTH CAROLINA
(THE STATE 401(k) PLAN)**

This Model Order Has Been Prepared to Assist in
Drafting Equitable Distribution Orders Involving Benefits Payable by the
Supplemental Retirement Income Plan 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 State 401(k)
Plan and Administerable by the Plan. Parties Are Strongly Encouraged to Submit
Proposed Equitable Distribution Orders to the State 401(k) Plan for Approval Prior
to Submission to the Court. Parties Should Allow at Least 4-6 Weeks for a
Response.

The Supplemental Retirement Income Plan of North Carolina
P.O. Box 5340
Scranton, PA 18505

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
DISTRICT COURT DIVISION

COUNTY OF _____

___ CVD _____

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

DOMESTIC RELATIONS ORDER
The State 401(k) Plan

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: that parties have agreed to the entry of this Consent Domestic Relations Order relative to marital property], concerning a distribution of **plaintiff's/defendant's** interest in benefits payable by the Supplemental Retirement Income Plan 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 the parties have agreed to the entry of this Consent Domestic Relations Order].

3. That at the time of the parties= separation, **plaintiff/defendant**, **[name]**, (redacted) Social Security number xxx-xx-____, was a participant of the Supplemental Retirement Income Plan of North Carolina (hereinafter "the State 401(k) Plan"). **His/Her** last known address is _____.

4. This Order recognizes **plaintiff's/defendant's** (hereinafter "the non-participant ex-spouse") marital interest in the benefits payable by the State 401(k) Plan to the **plaintiff/ defendant** (hereinafter "the participant"). The marital interest of the non-participant ex-spouse in the participant's benefits payable by the State 401(k) Plan shall be calculated as follows: fifty per cent (50%) [or _____ per cent (___%)] of the balance of the participant's account as of the date of separation, plus any gains or losses attributable to said fifty [or _____] per cent from that date to the date of distribution.

OR

4. This Order recognizes the **plaintiff's/defendant's** (hereinafter "the non-participant ex-spouse") marital interest in the benefits payable by the State 401(k) Plan to the **plaintiff/ defendant** (hereinafter "the participant"). The marital interest of the non-participant ex-spouse in the participant's benefits payable by the State 401(k) Plan shall be calculated as follows: \$ _____, plus any gains or losses attributable to said \$ _____ from the date of separation, or _____, to the date of distribution.

OR

4. Any other method of calculation agreeable to the parties or the Court and sufficiently specific.

5. If a formula is set out in Finding of Fact 4, it shall be applied to all retirement benefits payable to the participant or to **his/her** designated survivor(s) under any option provided by the State 401(k) Plan.

WHEREFORE, based upon the foregoing Findings of Fact, the Court concludes as a matter of law that the non-participant 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 State 401(k) Plan to the participant.

IT IS THEREFORE ADJUDGED, ORDERED, AND DECREED:

1. The term "participant" refers to the **plaintiff/defendant** herein, and the term "non-participant 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 participant are: _____.

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

4. That the name and mailing address of the State 401(k) Plan to which this Order is directed are: The Supplemental Retirement Income Plan of North Carolina, Prudential Retirement, Third Party Administrator, Attention: Jodi Tomassoni, P. O. Box 5340, Scranton, PA, 18505.

5. The State 401(k) Plan shall distribute to the non-participant ex-spouse a portion of the participant's benefits payable by the State 401(k) Plan, calculated pursuant to the provisions of Finding of Fact **4** of this order.

6. If a formula is set forth in Finding of Fact 4, it shall be applied to all retirement benefits payable to the participant or to **his/her** designated survivor(s) under any option provided by the 401(k) Plan.

7. The non-participant ex-spouse's share shall be paid as soon as administratively possible and in such manner as **he/she** may direct, consistent with all statutory and regulatory provisions governing the Plan and with the Plan Document.

8. In the event that the non-participant ex-spouse dies prior to the time that distribution is made to the non-participant spouse under this Order, the non-participant ex-spouse's marital share of the participant's retirement benefits shall be paid to such person or persons as are named in the non-participant ex-spouse's will, or in the absence of any such designation, to **his/her** heirs by intestate succession.

9. Nothing in this Order shall be construed to require the State 401(k) Plan to provide to the non-participant ex-spouse any type or form of benefit or any option not otherwise available to the participant.

10. A copy of this Order shall be served upon the Administrator of the Supplemental Retirement Income Plan of North Carolina, and the Administrator shall determine, within a reasonable period of time, whether this Order can be administered by the State 401(k) Plan. This Order shall take effect immediately and shall remain in effect until further orders of this Court. Until this Order is accepted by the State 401(k) Plan, this Court retains jurisdiction to modify this Order as may be required or necessary.

This the _____ day of _____, 20__.

District Court Judge Presiding