

1 IMPERIAL COUNTY EMPLOYEES' RETIREMENT SYSTEM

2
3 MODEL DOMESTIC RELATIONS ORDER B

4
5 *[Applicable to A Dissolution of Marriage **AFTER** Retirement]*

6
7
8 **CAUTION: YOU ARE HEREBY ADVISED TO SEEK COMPETENT LEGAL**
9 **COUNSEL.**

10
11 The disposition of retirement benefits in domestic relations proceedings involves complex
12 marital rights and tax issues. The Imperial County Employees' Retirement System, its
13 employees, agents and consultants are not authorized to give legal advice and, therefore, make
14 no representation as to the model's sufficiency under applicable federal or state law or as to its
15 legal consequences under your particular facts and circumstances. You should obtain the advice
16 of your own legal counsel to create an appropriate court order for you.

1 [NAME OF COUNSEL]
2 [ADDRESS OF COUNSEL]
3 [CITY, STATE]
4 [PHONE NUMBER]

5 ATTORNEY FOR [PETITIONER/RESPONDENT]

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA

8 COUNTY OF _____
9

10
11 In Re the Marriage of) Case No. _____
12)

13) **[MODEL ORDER B]**
14) STIPULATED DOMESTIC RELATIONS
15) ORDER RE: DIVISION OF IMPERIAL
16) COUNTY EMPLOYEES' RETIREMENT
17) SYSTEM BENEFITS
18)

19)
20)
21)
22)
23)
24)
25)
26)
27)
28)

Petitioner, _____, and Respondent, _____, hereby stipulate as follows:

RECITALS

1. Petitioner and Respondent were married to each other on _____. They separated on _____, and this Court entered a judgment of dissolution of marriage in the action on _____. The member retired on _____.

2. This Court has personal jurisdiction over both Petitioner and Respondent and jurisdiction over the subject matter of this Order and the dissolution of marriage action.

3. Imperial County Employees' Retirement System (ICERS) is governed by the County Employees Retirement Law of 1937 (the '37 Act), which is set forth at section 31450, et

1 seq., of the Government Code and was properly joined as a party to the Petitioner and
2 Respondent's dissolution of marriage action pursuant to sections 2060 through 2065 of the
3 Family Code.

4 **IT IS HEREBY ORDERED BY THE COURT THAT:**

5 1. This Order is entered pursuant to the Family Code.

6 2. **[Respondent or Petitioner]** ("Member") and **[Respondent or Petitioner]**
7 ("Nonmember") have acquired a community interest in the Member's monthly retirement
8 benefits attributable to periods of service in ICERS from the Date of Marriage up to the Date of
9 Separation or Retirement, whichever occurred first.

10 3. The Member is currently receiving ICERS retirement benefits of \$ **[Enter**
11 **amount]** a month under option **[Enter option selected at retirement]** with **[Name of**
12 **Beneficiary]** named as beneficiary for any benefits payable under such option upon the
13 Member's death. For purposes of this Order, the term "retirement benefits" shall include the
14 service retirement portion of retirement benefits, and any applicable future death benefits. Upon
15 the dissolution of the marriage, the Nonmember ceases to qualify for unmodified survivor
16 benefits pursuant to section 31760.1 of the Government Code.

17 4. Calculation of Nonmember's Interest. The Court allocates and awards to the
18 Nonmember an interest in any and all of the Member's retirement benefits calculated as follows:
19 50% of the monthly retirement benefits attributable to the Member's service in ICERS during
20 the period from the Date of Marriage up to the Date of Separation, or date of Retirement if
21 earlier, as the Nonmember's sole and separate property. All retirement benefits, which are not
22 awarded to the Nonmember pursuant to this Order, shall be the Member's sole and separate
23 property.

24 5. Commencement of Benefits to the Nonmember. The Nonmember shall
25 commence to receive the Nonmember's monthly benefits by separate warrant directly from
26 ICERS as soon as administratively practicable following the date the Administrator receives
27 this Order.

1 6. Benefits Payable at Member's Death. The Member shall be responsible for filing
2 a Designation of Beneficiary form with the Administrator. Upon the Member's death, the
3 Administrator shall continue to pay to the Nonmember the Nonmember's monthly benefit until
4 the death of the Nonmember. Upon the Member's death, the Administrator shall pay by separate
5 warrant directly to the beneficiary designated by the Member, the balance of any accumulated
6 retirement contributions and interest remaining in the Member's account and any other benefits
7 payable to that designated beneficiary. If the Member designates Member's minor children as
8 beneficiary, then monthly survivor benefits may be payable pursuant to section 31760.1 of the
9 Government Code.

10 7. Benefits Payable at Nonmember's Death. The Nonmember shall be responsible
11 for filing a Designation of Beneficiary form with the Administrator. If benefits are still payable
12 to the Member at the time of the Nonmember's death, the Administrator shall continue to pay
13 the Nonmember's monthly benefit by separate warrant directly to the beneficiary designated by
14 the Nonmember. Said payments shall cease upon the death of the Member. If the Nonmember
15 designates Nonmember's minor children as beneficiary, then monthly survivor benefits may be
16 payable pursuant to section 31760.1 of the Government Code. If the Nonmember's minor
17 children do not survive the Nonmember, any remaining interest shall be paid in accordance
18 with Section 31458.2 of the Government Code.

19 8. The Nonmember's monthly benefit will be increased by all applicable cost-of-
20 living increases or other similar increases, but only to the extent permitted under the '37 Act and
21 the Bylaws of ICERS.

22 9. The Member and the Nonmember shall be responsible for, and pay, any taxes
23 due in connection with his or her receipt of distributions from ICERS.

24 10. When there have been purchases or redeposits, the community interest will
25 include the corresponding retirement contributions, earnings, and service credit to the extent
26 that the underlying service was attributable to Member's service between the date of marriage
27 and the date of separation, regardless of when the purchase or redeposit payments were made.
28

1 11. If Member receives a service-connected disability retirement allowance, the
2 amount otherwise payable to Member or any survivor continuance beneficiaries each month
3 will be reduced by (1) the amount payable to Nonmember or any survivor continuance
4 beneficiaries each month if Nonmember has retired; (2) the actuarial valuation of the monthly
5 value over the expected lifetimes of Member and any survivor continuance beneficiaries of
6 Nonmember's refund, if any, as of the date of the refund; or (3) the actuarial valuation of the
7 present monthly value over the expected lifetimes of Member and any survivor continuance
8 beneficiaries of Nonmember's share at the time Member retires if Nonmember has neither
9 retired nor taken a refund.

10 12. Nonmember will not be entitled to any disability retirement allowance.

11 13. Member's Name. For the purpose of making any benefit payments provided by
12 the terms of this Order or providing any notice required by the terms of this Order, Member's
13 name, current mailing address, telephone number, Social Security number and date of birth are
14 as follows:

15 Name: _____

16 Address: _____

17 Telephone No.: _____

18 Social Security Number: _____

19 Date of Birth: _____

20 14. Nonmember's Name: For the purpose of making any benefit payments provided
21 by the terms of this Order or providing any notice required by the terms of this Order, Member's
22 name, current mailing address, telephone number, Social Security number and date of birth are
23 as follows:

24 Name: _____

25 Address: _____

26 Telephone No.: _____

27 Social Security Number: _____

1 Date of Birth: _____

2 15. Notice of change of address or telephone number shall be made in writing to
3 ICERS, addressed as follows, or as the Administrator may specify in a written notice to
4 Member and Nonmember:

5 Imperial County Employees' Retirement System
6 1221 State Street
7 El Centro, California 92243

8 16. The Member and the Nonmember shall sign all forms, letters and other
9 documents as required to effect the distribution(s) described herein and the intent of this Order.

10 17. The Nonmember, the Nonmember's agents and attorneys are authorized to
11 receive information concerning the Member's benefits as may be needed to establish the
12 Nonmember's account.

13 18. It is further ORDERED that the Member shall act as constructive trustee of any
14 benefits assigned to the Nonmember under this Order, which may be paid to or received by the
15 Member. The Member, as trustee, shall promptly pay or transmit any such benefits to the
16 Nonmember at the Nonmember's last known address. It is also ORDERED that the Nonmember
17 shall act as constructive trustee of any benefits assigned to the Member under this Order, which
18 may be paid to or received by the Nonmember. The Nonmember, as trustee, shall promptly pay
19 or transmit any such benefits to the Member at the Member's last known address.

20 19. This Order shall be administered and interpreted in conformity with the '37 Act
21 and the Bylaws of ICERS and other applicable law. If the '37 Act and/or the Bylaws of ICERS
22 are amended, then Member and the Nonmember shall immediately take the steps necessary to
23 amend this Order to comply with any such amendments, changes and/or modifications, or, if
24 permissible under any such change, amendment, or modification to the '37 Act and the Bylaws
25 of ICERS, the Administrator may treat this Order as acceptable. The Member and the
26 Nonmember shall be responsible for any of the costs and/or expenses associated with such
27 amendment to this order.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

The parties having stipulated thereto and good cause appearing therefore.

IT IS SO ORDERED.

Dated: _____
JUDGE OF THE SUPERIOR COURT