

WARNING - CAUTION

This Sample Order is intended to assist the parties and their attorneys in preparing a Qualified Domestic Relations Order (QDRO). The language is acceptable to the Plans as meeting the requirements of a QDRO; however, the language has not been challenged in court nor has a court definitively stated that such language meets ERISA's standards.

The Plan does not warrant that the Order is appropriate in each instance. The parties are enough to consult their own attorneys before using this sample, and their attorneys should adopt and revise the language where appropriate. Simply, there are options and language which the parties may want to modify. The Plan takes no position on these provisions. There is no requirement that you use this sample -- it is furnished as a courtesy.

Future Plan changes and amendments to ERISA could also affect the validity of this sample Order.

SAMPLE ORDER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF \_\_\_\_\_

In re the Marriage of:	)	Case No. _____
	)	
_____	)	QUALIFIED DOMESTIC
	)	RELATIONS ORDER
Petitioner,	)	
	)	[RELATING TO NORTHERN
	)	CALIFORNIA ELECTRICAL WORKERS
	)	PENSION TRUST]
_____	)	
	)	
Respondent.	)	
_____	)	

Pursuant to the Judgment of Dissolution of Marriage entered herein and as agreed to by the parties,

IT IS HEREBY ORDERED as follows:

1. QDRO. The parties intend that this order satisfy the requirements of a Qualified Domestic Relations Order ("QDRO"), as provided in the Employee Retirement Income Security Act, as amended ("ERISA"), and Internal Revenue Code Section 414(p).

2. Name of Plan. This Order applies to the NORTHERN CALIFORNIA ELECTRICAL WORKERS PENSION PLAN ("PENSION PLAN") and the SAN FRANCISCO ELECTRICAL WORKERS RETIREMENT SAVINGS PLAN ("SAVINGS PLAN"), (formerly known as the Northern California Electrical Workers Money Purchase Plan), both of which comprise the Northern California Electrical Workers ("NCEW") Pension Trust.

3. Parties. The name, mailing address, phone number, Social Security number and date of birth of each party is:

a. Employee (Plan Participant):

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Social Security No.: (May be provided separately)

Date of Birth: May be provided separately)

b. Spouse or Domestic Partner (Alternate Payee):

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Social Security No.: (May be provided separately)

Date of Birth: May be provided separately)

The parties agree to notify the Plans of any change in address, name change and/or the death of the other party.

4. Period of Marriage or Domestic Partnership. The parties agree that the period of marriage or Domestic Partnership was:

Date of Marriage/Domestic Partnership: \_\_\_\_\_

Date of Separation: \_\_\_\_\_

For purposes of this QDRO:

a. If the Marriage or Domestic Partnership was on or before the 15th of a month, the parties will be considered married the entire month.

b. If the Marriage or Domestic Partnership occurred after the 15th of a month, the parties will not be considered married that month.

c. If the separation was on or before the 15th of a month, the parties will not be considered married (or Domestic Partners) for that month.

d. If the separation occurred after the 15th of a month, the parties will be considered married (or Domestic Partners) for the month.

5. Vested Status. No benefits are payable unless the employee has a Vested benefit under the applicable Plan.

6. Annuity Starting Date. The spouse's "Annuity Starting Date" means the effective date as of which benefits are to commence being paid to the spouse under this Order. (Any reference to Spouse under this Order also refers to a same-sex "Domestic Partner" under California law that qualifies as a dependent under the Internal Revenue Code, if applicable.) The parties understand that retroactive benefits are not paid for periods prior to the filing of a pension application except as is required by applicable law.

7. Spouse's Benefit. The spouse or Domestic Partner is awarded a benefit as provided herein and is an "Alternate Payee" as defined in ERISA. (The terms "spouse" or "Alternate Payee" are used in this order.) The Alternate Payee's benefit shall be one-half of the community property portion of the Participant's benefit, as follows:

a. NORTHERN CALIFORNIA ELECTRICAL WORKERS PENSION PLAN. During the marriage (or Domestic Partnership), the Participant earned retirement benefits under the Northern California Electrical Workers (“NCEW”) Pension Plan that are considered community property of the parties. The parties agree that the spouse has a one-half share of the community portion of the Participant's pension based on the date of marriage and date of separation. For purposes of this order, the value of such credits will be the benefit rate for the particular years when the credit was earned based on the value at the annuity starting date

. The Alternate Payee’s benefit will be reduced to account for actuarial adjustments based on her/his life expectancy, early retirement, if applicable, and the benefit option selected. .

b. SAN FRANCISCO ELECTRICAL WORKER RETIREMENT SAVINGS PLAN. This order also creates and recognizes the Alternate Payee’s right to one-half of the community property portion of the Participant's interest in the San Francisco Electrical Workers Retirement Savings Plan. The community value is determined by adding the contributions made on the Participant's behalf during the marriage/Domestic Partnership to the earnings thereon, plus any appreciation in assets, minus Plan expenses and any depreciation in assets. The community portion of the Participant's interest, after deducting the QDRO fee of \$500.00 (or a greater amount as described below), shall be segregated and an account established in the Alternate Payee's name and Social Security number within a reasonable period. Alternate Payee shall be entitled to future earnings and asset appreciation thereon minus any depreciation in the value of the assets and Plan expenses. The parties acknowledge that upon the Alternate Payee filing a completed application form, the Plan will transfer the funds to the Alternate Payee’s Individual Account (or directly to the Alternate Payee if so requested and she is entitled to such benefits) and that the value of such Account or amount will vary depending upon the date the transfer occurs, which will be within a reasonable period of time after receipt of the final order approved

by the Court, as determined as the discretion of the Plan. (To reimburse the Plan for the administrative and legal costs associated with reviewing, approving and implementing a qualified domestic relations order (so that other Participants do not pay for another Participant's divorce-related costs), the Plan automatically assesses a flat QDRO administration fee of \$500.00. The fee will be charged equally to the parties' post-order interests in the Plan if both parties have a sufficient interest to absorb the allocation (and thus reduced from their respective account balances), unless the Court order provides otherwise.) All other contributions, plus earnings and losses, thereon, as well as any outstanding loan balance as of the date of separation shall constitute the Participant's separate property.

Once the Alternate Payee's account is established, the Alternate Payee shall have total control over the Individual Account to the extent allowed by the Plan including the right to designate a beneficiary(ies) to receive benefits upon her death. Similarly, the Participant will have total control over his remaining benefits in the Plan. Alternate Payee will not have any right, title or interest in the Participant's remaining balance, including being designated as a beneficiary for any death or other benefits provided by the Plan (unless the Participant later designates the Alternate Payee as a beneficiary).

c. Reduction of Benefits. The benefits payable to the Participant shall be reduced by the amount of the Alternate Payee's benefits before applying any early retirement or actuarial adjustments, as provided herein for each Plan.

8. Alternate Payee's Election to Start Payments Early. Under the NCEW Pension Plan, the Alternate Payee may elect to commence receiving benefits (by filing a pension application on forms furnished by the Plan Office) at any time after the earliest date that the Participant could elect to retire under the Plan. Notwithstanding any provision herein to the contrary, the Alternate Payee's entitlement to early retirement benefits is not intended to and will

not adversely affect the Participant's remaining benefits. Under the SFEW Retirement Savings Plan, the Alternate Payee may request an earlier distribution in a single lump sum after the the Alternate Payee's share has been segregated into a separate account.

By selecting a benefit commencement date earlier than the date the Participant commences receiving benefits under the NCEW Pension Plan, the Alternate Payee acknowledges that she will not be entitled to share in any benefit increase adopted after her Annuity Starting Date and such Alternate Payee will not be entitled to any retirement subsidy provided in the Plan prior to the date the Participant retires. After the Participant commences receiving benefits, the Alternate Payee's benefit will be adjusted to include any early retiree subsidy to which the Participant is entitled.

Pursuant to the Internal Revenue Code and lawful regulations issued thereunder, in no event may benefits commence later than the Participant's "required beginning date" as defined in Internal Revenue Code Section 401(a)(9).

9. Provisions Applicable to Pension Plan.

a. Alternate Payee's Benefit Options. The Alternate Payee's benefit in the Pension Plan shall be actuarially adjusted so that the benefit will be paid as a Normal Form of Payment for unmarried Participants at the Alternate Payee's Annuity Starting Date. The Alternate Payee may then elect any optional form of payment available under the Pension Plan as to her portion of the Participant's benefit, including a life annuity based on the Alternate Payee's life. The form elected must, however, comply with the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code. The Alternate Payee shall have the right to designate beneficiaries only to the extent that death benefits may be available under the form of benefit option elected for the Pension Plan. If, for example, the Alternate Payee selects a life annuity based on her life, the benefits cease upon her death

b. Participant's Death After Alternate Payee's Benefit Starts. If the Participant dies after the Alternate Payee's Annuity Starting Date, the Alternate Payee's benefits under this Order will not be affected. Further, the Alternate Payee will not be entitled to any death benefits payable as a result of the death of the Participant.

c. Participant's Death Before Alternate Payee's Benefit Starts. If the Participant dies before the Alternate Payee's Annuity Starting Date and if the Alternate Payee survives the Participant, the Alternate Payee, if the Participant's former lawful spouse, will be considered the surviving spouse for purposes of Internal Revenue Code sections 401(a)(11) and 417 as to a Pre-Retirement Survivor Annuity based on 100% of the community property interest, and to his/her 50% percent share in the community property interest called for in paragraph 7a of any optional lump sum death benefit that is payable..

d. Alternate Payee's Death Before Participant's and Spouse's Benefits Start. If the Alternate Payee dies before the Participant, all benefits shall be paid to the Participant or his beneficiaries and no Plan benefits will be payable to the Alternate Payee or her beneficiaries.

e. Alternate Payee is Older than the Participant. If an Alternate Payee is older than the Participant, that Alternate Payee is not entitled to commence receiving her benefits until the Participant is entitled to commence receiving benefits, even if that older Alternate Payee has reached age 70-1/2. Alternate Payee acknowledges that the benefit commencement date is contingent on the Participant's eligibility for benefits under the Plan, not the Alternate Payee's age.

f. Disability Benefits-Pension Plan. Alternate Payee is not entitled to any portion of a Disability Pension that is payable to the Participant prior to the date on which the Participant meets the age and service requirements for an Early Retirement Pension.

If the Participant receives or continues to receive a Disability Pension upon attainment of the Plan's Early Retirement Age that exceeds the benefit to which the Participant would have been entitled at that time were it not for the disability, the Alternate Payee will not be entitled to any portion of the amount in excess of the amount of the Early Retirement benefit that the Participant would have been entitled to receive under the Plan.

g. Supplemental Payments-Pension Plan. Alternate Payee shall not share in any 13th check, cost of living increase, supplemental payment or other type of extra payment issued to retirees in the future.

10. Form of Benefit – Retirement Savings Plan. The Alternate Payee may elect any form of payment available under the Retirement Savings Plan, except that the benefit will be limited to a single lump sum if the Participant has not reached the earliest retirement age set forth in the Plan. If the Alternate Payee predeceases the Participant, there will be no reversion of benefits to the Participant. Instead, benefits will be paid pursuant to the Alternate Payee's beneficiary designation under the benefit option selected. If the Participant dies after the Alternate Payee's Annuity Starting Date, the Alternate Payee's benefit will not be affected. Similarly, the Alternate Payee will not be entitled to any death benefits payable as a result of the Participant's death, unless the Participant later names the former Alternate Payee as his designated beneficiary.

11. Participant's Residual Benefits. Any benefits under either or both Plans not specifically awarded to the Alternate Payee under this Order shall be the Participant's sole and separate property.

12. Statutory Limits to this Order. Notwithstanding any provision hereof to the contrary, in no event shall this order be interpreted as requiring the Plan to do any of the following:

a. Require payment of benefits to the Alternate Payee which are already required to be paid to another spouse or Alternate Payee under a prior QDRO.

b. Require the Plan to provide benefits with a greater actuarial value than it would otherwise pay.

c. Require the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan.

13. Lump Sum Distribution. If the present value of a benefit payable under this Order is \$5,000 or less and has not exceeded that amount, the Plan shall distribute such benefit in a lump sum.

14. Conditions for Commencement of Benefit.

a. The Annuity Starting Date for the NCEW Pension Plan must be as of the first day of a calendar month and must not be before the Participant's earliest optional retirement date (as determined by the Plan);

b. Spouse must file with the Plan Office an application for benefits on a form designated by the Trust;

c. Spouse must provide the Plan Office with any information the Trust reasonably needs to determine the spouse's benefits.

d. Alternate Payee agrees to cooperate with the Plan Office and do all things necessary to effectuate this order.

e. Alternate Payee agrees to notify the Plan Office immediately of any address and/or name change.

15. Application. Alternate Payee acknowledges that it is necessary to file a completed application to be entitled to benefits under both the NCEW Pension Plan and the SFEW Retirement Savings Plan. Alternate Payee acknowledges that for the NCEW Pension

Plan, benefits will commence as of the first day of the month following receipt of the completed application.

16. Savings Clause. It is the intention of the Alternate Payee and the Participant that this Order shall qualify as a QDRO. If any provision hereunder is determined to be inconsistent with the definition of a QDRO or other applicable law, this Order shall be amended as may be necessary to comply with such requirements. If required by applicable law the parties agree that they shall enter into a stipulation (which may be a letter agreement) as may be reasonably required to amend this Order (without the necessity of having to return to Court). The Parties release the Plan from any liability for accepting such a Stipulation or letter-agreement.

17. No Prior Order. The parties certify that they are not aware of prior orders which dispense of benefits hereunder.

18. Definitions. Terms not specifically defined in this QDRO shall have the meanings defined in the particular Plan.

19. Limited Type of Approval. Approval of a QDRO indicates only that the Plan finds the Order to meet the basic requirements of ERISA and does not violate the Plan. It is not to be taken as a determination by the Plan that the Order makes a legally proper division of marital property. Plan representatives, Trust counsel, Trustees and the Plan assume no responsibility to the parties for the correctness or fairness of that division.

20. Plan Interpretation. The parties recognize and understand that under the Plan, the Board of Trustees has total discretion in the interpretation of the Plans and this Order.

21. Amendment. The Court retains jurisdiction to enforce or amend this Order insofar as is necessary to establish or maintain its qualifications as a QDRO, or as is necessary. If, however, a disagreement arises as to the interpretation of the Order, the parties may agree or stipulate as to the proper interpretation without having to return to Court for approval. The

Parties agree to release the Plan(s) from any liability for complying with any such Stipulation or letter agreement.

22. Copy of Order to Trust Counsel. Petitioner shall furnish the Plan with a copy of the file-endorsed order approved by the Court within 30 days of this Order being approved by the Court.

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
Attorney for Participant

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
Attorney for Spouse

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
Participant

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
Spouse

Dated: \_\_\_\_\_, 20\_\_\_\_  
\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT