

{EDRO Sample Language}
{Wayne County Employees' Retirement System}
{Defined Benefit Plans}

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF _____

Plaintiff

Case No. _____

HON. _____

vs.

Defendant

_____ **P** _____

Attorney for Plaintiff

{Address} _____

{Telephone Number} _____

_____ **P** _____

Attorney for Defendant

{Address} _____

{Telephone Number} _____

**ELIGIBLE DOMESTIC RELATIONS ORDER FOR THE
WAYNE COUNTY EMPLOYEES' RETIREMENT SYSTEM**

At a session of said Court, held in the Courthouse, in
the City of _____, County of _____,
State of Michigan, on the ___ day of ___, A.D. 20 __

PRESENT: HON. _____
Circuit Court Judge

This order is intended to serve as an Eligible Domestic Relations Order
("EDRO") by which {Plaintiff/Defendant}, _____, assigns a

portion if {his/her} retirement benefits, under the retirement system specified below, to the {Plaintiff/Defendant}, _____, in accordance with the Eligible Domestic Relations Order Act (Public Act 46 of 1991 – MCL 38.1701-38.1711) and the Wayne County Employees’ Retirement System Ordinance. [It is intended that this Order be incorporated in the Judgment of Divorce entered _____, _____, and made a part thereof.]

1. The retirement system (the “PLAN”) subject to this Order is as follows:

Wayne County Employees’ Retirement System
Plan Administrator
28 West Adams, Suite 1900
Detroit, MI 48226
(313)224-5893

{Note: 1991 PA 46 requires that the Order, to be considered, must be filed prior to the participant’s retirement allowance effective date.}

2. The Participant is the [Plaintiff/Defendant], _____,
Social Security No. ____ - ____ - ____; Date of Birth _____;
whose last known address is:

3. The Alternate Payee is the [Plaintiff/Defendant], _____,
Social Security No. ____ - ____ - ____; Date of Birth _____;
whose last known address is:

4. The Participant and the Alternate Payee were married on _____, and were divorced on _____.

5. The participant assigns to the Alternate Payee a portion of [his/her] benefits from the Plan and the Plan will pay those benefits to the Alternate Payee according to the following terms and condition:

Select Alternative 1(a) or Alternative 2(a):

Alt. 1(a)	It is the parties’ intention, and the Order of this Court, that the Alternate Payee receive a monthly benefit from the Plan, of _____% of the Participant’s retirement allowance, which has accrued as of _____, which percentage takes into consideration the years of service, if any, that were accrued prior to the date of marriage.
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Alt. 2(a) It is the parties' intention, and the Order of this Court, that the Alternate Payee receive a monthly benefit from the Plan of \$_____ [of the Participant's retirement allowance].

(b) The benefits payable to the Alternate Payee will otherwise commence when the Participant begins to receive benefits under the Plan and shall be payable in the form of the Plan's Option 3-50% Joint Survivor Allowance as provided in Paragraph 5(e) below, unless the Alternate Payee elects to receive [his/her] benefit in a form which provides an annuity based on [his/her] life [either] commencing when the Participant begins to receive benefits under the Plan [or commencing early, pursuant to Paragraph 5(c)].

{Modify the reference to section 5(e) if omitting either paragraphs © or (d)}

(c) The Alternate Payee shall have the right to elect to receive benefit payments under the Plan at any time beginning when the Participant reaches the earliest retirement date as defined in Section 2(d) of the Eligible Domestic Relations Order Act (Public Act 46 of 1991)

(d) The Alternate Payee shall be designated as the surviving spouse for the purpose of the Plan's pre-retirement survivor annuity benefit for that portion of the retirement allowance which is divided in Paragraph 5(a).

(e) The Participant shall elect the Plan's Option 3 – 50% Joint Survivor Allowance for that portion of the retirement allowance which is being divided in Paragraph 5(a) and shall designate the Alternate Payee as beneficiary of the Option 3 allowance, unless the Alternate Payee elects to receive [his/her] benefit in a form which provides a life annuity based on [his/her] life. While both parties are alive, the Plan shall pay the Alternate Payee [Alt. 1: ____% / Alt. 2: \$_____] of the reduced Option 3 retirement allowance.

(f) If the Plan pays any post-retirement cost of living benefits increase (i.e., non-guaranteed annual increases, supplemental payments, 13th checks, one time increases) on the benefits being paid from the Plan, that are not based solely on the segregated assets of the participant's account value, the Alternate Payee shall receive a share of each such increase that is paid after the later of the date this Order is determined by the Plan Administrator to be an EDRO; or the date when the Participant begins to receive benefits under the Plan. The Alternate Payee's share of such increase will be proportion to the amount of the Participant's retirement allowance that is awarded the Alternate Payee under paragraph 5(a).

(g) If the Alternate Payee deceases the Participant prior to the commencement of benefits to the Alternate Payee under this Order, the Alternate Payee's interest in the Plan shall revert back to the Participant.

(h) The Alternate Payee shall include in [his/her] gross income, for the tax year of receipt, all retirement benefit distributions that [he/she] receives pursuant to the Participant's assignment of benefits under this EDRO; and accordingly, the Participant shall not include such benefit distributions in [his/her] gross income. The Alternate Payee shall be treated as the sole distribute under I.R.C Sections 72 and 402 of any payment or distribution that is made to [him/her] under Participant's assignment of benefits under this EDRO

(i) The Participant and the Alternate Payee agree to share any additional actuarial costs incurred by the Plan due to the Order. The Alternate Payee's share of said costs shall be in proportion to [his/her] share of the Participant's retirement allowances awarded to the Alternate Payee under paragraph 5(a). The Participant and the Alternate Payee shall each make payment to the Plan for those costs upon determination and notification by the Plan Administrator that the Order is an EDRO.

6. This assignment of benefits does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan. This assignment does not require the Plan to provide increased benefits, determined on the actuarial equivalent values. This assignment does not require the Plan to provide benefits to the Alternate Payee which are required to be paid to another Alternate Payee under another Order previously determined to be an

EDRO, or as otherwise provided by Section 11 of the Eligible Domestic Relations Order Act (Public Act 46 of 1991).

- 7. The Participant, the Alternate Payee and the Court intend this order to be and EDRO under the Eligible Domestic Relations Order Act (Public Act 46 of 1991).
- 8. The parties agree that the mutual interest is to provide the Alternate Payee with a retirement payment that fairly represents what they have agreed to be the Alternate Payee's martial share of the Participant's accrued retirement benefit as defined in paragraph 5(a). In the event the Administrator of the Plan determines this Order not to be an EDRO satisfactory to the Plan, the participant and Alternate Payee hereby agree to submit to and request a court competent jurisdiction to modify the Order to make it an EDRO satisfactory to the Plan in such a manner that will reflect the parties intent as herein expressed and thereafter to enter an order modifying this Order, said modification order to be entered nunc pro tunc, if appropriate, so as to comply with the Public Act 46 pf 1991, the Plan and related legislation.

Circuit Court Judge

Approved as to form:

_____ P _____
Attorney for Plaintiff

_____ P _____
Attorney for Defendant

Distribution copies:

- Original to Circuit Court Clerk
- Certified copy to Plan Administrator
(at address given in Paragraph 1)