

ATTORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Fam. Code, §§ 17400, 17406) (Name, state bar number, and address):		<i>FOR COURT USE ONLY</i>
TELEPHONE NO.:	FAX NO.:	
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
PETITIONER/PLAINTIFF:		
RESPONDENT/DEFENDANT:		
OTHER PARENT:		
<b>QUALIFIED DOMESTIC RELATIONS ORDER FOR SUPPORT (EARNINGS ASSIGNMENT ORDER FOR SUPPORT)</b>		CASE NUMBER:
<input type="checkbox"/> Modification <input type="checkbox"/> Child Support <input type="checkbox"/> Spousal or Family Support		

**TO THE PAYOR/PLAN:** This is an earnings assignment order for support governed by Chapter 8 of the Family Code and is intended to be a qualified domestic relations order (QDRO) under applicable federal law. This order applies to the following named plan:

Name:

Address:

This order requires you to withhold a portion of the benefits payable under the Plan with respect to (*specify Obligor/Participant's full legal name and, if known, mailing address, date of birth, and employee identification number*):

Name:

DOB:

ID#:

Address:

and pay as directed below.

**Note:** A separate *Attachment to Qualified Domestic Relations Order for Support* (form FL-461) that sets forth the social security number of any participant named above must be completed and served on the Plan with a copy of this order. The Plan will require this information for tax reporting purposes. **Do not file a copy of form FL-461 with the court.**

#### THE COURT ORDERS THE FOLLOWING:

##### 1. WITHHOLDING OF PERIODIC BENEFIT PAYMENTS

- a. If Participant has commenced receiving benefits under the Plan in the form of monthly or other periodic payments or has applied to receive monthly or other periodic payments (*if benefits are not in pay status and have not been applied for, see item 5; if benefits are payable in a lump sum, see item 3*), withhold the following amounts from the monthly benefits otherwise payable to the Participant:

(1) <input type="text"/> \$	per month current <b>child support</b>	(4) <input type="text"/> \$	per month <b>child support arrearages</b>
(2) <input type="text"/> \$	per month current <b>spousal support</b>	(5) <input type="text"/> \$	per month <b>spousal support arrearages</b>
(3) <input type="text"/> \$	per month current <b>family support</b>	(6) <input type="text"/> \$	per month <b>family support arrearages</b>

- b. **Total monthly support obligation of** (*sum of item 1a(1) through (6)*):  \$

- c. If the total monthly support obligation **exceeds 50 percent** of Participant's periodic benefits, withhold the greater of 50 percent or the percentage, if any, set forth in item 12.
- d. If Participant's benefits are payable on a periodic basis other than monthly (e.g., quarterly, semiannually, or annually), multiply each of the amounts in items 1a and 1b by the number of months included in the payment period, and withhold the adjusted amounts (subject to the limitations in item 1c, taking into account the adjustment of the amount in item 1b) from each benefit payment.
- e. If the amount withheld is less than the total monthly support obligation, prorate the amount first to current child support, then to current family support, and then to current spousal support. Apply any remainder in the same order of priority to support arrearages.

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2. **ARREARAGES:** For purposes of this order, the total arrearages are set as follows (interest that has not been calculated or included is not waived):

	<u>Amount</u>	<u>As of (date)</u>
a. <input type="checkbox"/>	Child support: \$	
b. <input type="checkbox"/>	Spousal support: \$	
c. <input type="checkbox"/>	Family support: \$	

3. **WITHHOLDING FROM LUMP SUM DISTRIBUTIONS:** Withhold from any lump sum distributions currently payable to Participant under the Plan as follows:

- a. An amount equal to the total of the support arrearages, if any, set forth in item 2.
- b. To the extent the amounts withheld under item 3a are for child support arrearages, withhold from the lump sum distribution and pay over to the appropriate taxing authorities an additional amount sufficient to satisfy the Plan's mandatory federal and state income tax withholding obligations with respect to those arrearages and with respect to all additional amounts withheld under this item 3b. Any amounts withheld under this item 3b may not be applied to reduce the amount of the child support arrearages.
- c. To the extent the amounts withheld under item 3a are for support arrearages other than child support, withhold from those amounts and pay over to the appropriate taxing authorities an additional amount sufficient to satisfy the Plan's mandatory federal and state income tax withholding obligations with respect to those arrearages. Any amounts withheld under this item 3c must be applied proportionally to reduce the amount of the family support arrearages and spousal support arrearages.
- d. If the amounts withheld under item 3a are less than the total of the support arrearages, if any, set forth in item 2, prorate the amounts first to child support arrearages, then to family support arrearages, and then to spousal support arrearages.
- e. If the amounts to be withheld under items 3a and 3b would exceed the total amount of the lump sum distribution currently payable, withhold the entire amount of the lump sum distribution, allocate from it an amount sufficient to satisfy the Plan's mandatory federal and state income tax withholding obligations with respect to the amount of such distribution, and allocate the balance to satisfaction of the child support arrearages. Any income tax withheld under this item 3e may not be applied to reduce the amount of the child support arrearages.
- f. The limitations on withholding set forth in items 1 and 12 do not apply to the withholding provisions of this item 3.

4. **DISTRIBUTE AMOUNTS WITHHELD OR ALLOCATED AS FOLLOWS:**

- a. **Child Support:** All amounts withheld or payable for child support under this order are for the benefit of (*specify name of each Alternate Payee, with date of birth, if available*):

Name of each child

Date of birth of each child

- b. Amounts withheld for child support must be paid to (*specify name, capacity, and mailing address of agent to receive payments—hereinafter "Agent"*):

Name:

Capacity:

Address:

c. **Spousal or Family Support**

- (1) All amounts withheld or payable for spousal/family support under this order are for the benefit of (*specify name of Spousal or Family Alternate Payee, with date of birth, if available*):

Name:

DOB:

**Note:** A separate *Attachment to Qualified Domestic Relations Order for Support* (form FL-461) that sets forth the social security number of any Spousal or Family Alternate Payee named in item 4c(1) must be completed and served on the Plan with a copy of this order. The Plan will require this information for tax reporting purposes. Do not file a copy of form FL-461 with the court.

- (2) Amounts withheld for spousal or family support must be paid to (*check one*):

(a)  Spousal or Family Alternate Payee at the following address (*specify mailing address of Alternate Payee*):

Address:

(b)  Spousal or Family Alternate Payee's Agent (*specify name, mailing address, and capacity of agent to receive payments*):

Name:

Capacity:

Address:

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**5. IF BENEFITS ARE NOT CURRENTLY IN PAY STATUS:**

- a. If Participant applies for benefits (including a lump sum distribution) within 90 days after the Plan receives this order or while the temporary restraining order in item 13 remains in effect, the withholding provisions of this order must take effect once such benefits become payable.
  - b. If Participant has not commenced receiving benefits under the Plan (other than by reason of the temporary restraining order in item 13), and does not apply to receive benefits by the end of the period specified in item 5a, the Plan has no obligation under this order to withhold payments from Participant's benefits, provided the Plan sends prompt written notice to Alternate Payee(s) stating that no benefits are currently available for distribution under this order and specifying the earliest date on which Participant could begin receiving benefits under the Plan if Participant terminated employment.
6. Any notices required or permitted under this order to any Alternate Payee must be sent by first-class mail, postage prepaid, to the Alternate Payee or to the Alternate Payee's Agent, if one is designated, at the address set forth in item 4, or such other address as the Alternate Payee/Agent may specify by written notice to the Plan.
7. This order upon approval as a QDRO (*check appropriate box, if either is applicable*):
- (a)  amends/replaces any existing QDRO with respect to support for any Alternate Payee's named herein.
  - (b)  supplements but does not amend or replace any existing payment obligations under a previous QDRO issued with respect to any Alternate Payee named herein.
8. This order must not be interpreted to require payment of benefits in any form not permitted by the Plan or in an amount greater than the actuarial value of Participant's benefits, less any benefits otherwise payable to another alternate payee under another order previously determined to be a QDRO.
9. Upon approval of this order as a QDRO, the Plan must send to Alternate Payee(s) any forms or notices that the Plan may require in order to effectuate the distribution of benefits as specified herein. This requirement does not apply if item 5b applies.
10. This order affects all benefits of Participant payable beginning as soon as possible but not later than 10 days after you receive it, including any retroactive benefit payments, whether those payments relate to a period before or after the date you receive this order. You must withhold from retroactive benefit payments according to the provisions of item 1 as if the payments had been made when due. The payments ordered herein will continue until further court order or notarized written notice from the Alternate Payee(s).
11. The Plan must give the Obligor/Participant a copy of this order and the accompanying blank *Request for Hearing Regarding Earnings Assignment* (form FL-450) within 10 days.
12.  **MAXIMUM WITHHOLDING PERCENTAGE GREATER THAN 50%** (*If a maximum withholding percentage greater than 50% has been authorized by court order, check the box to the left and complete the following.*)  
 By order entered on (date): \_\_\_\_\_, by stipulation or following noticed motion and appropriate proceedings, the court has determined, following Code of Civil Procedure section 706.052, that because support arrearages exist and/or when Participant's disposable earnings from all sources are taken into account, the maximum percentage of Participant's benefits under the Plan that are subject to withholding pursuant to item 1 of this order is (*check one*):  
 (a)  100%  
 (b)  \_\_\_\_\_ % (*If this box is checked, fill in the maximum percentage specified in the order.*)
13. **TEMPORARY RESTRAINING ORDER:** During any period in which the status of this order as a QDRO is being determined (by the Plan, a court of competent jurisdiction, or otherwise) and such further period as may be ordered by the court, the Plan is hereby **TEMPORARILY RESTRAINED** from making any distribution to Participant or Participant's beneficiary (other than a beneficiary under another QDRO) of any amount that would have been payable during such period to any Alternate Payee named herein if this order had been determined to be a QDRO. In no event may this temporary restraining order remain in effect for a period of more than 18 months after the date of this order.
14. **OTHER PROVISIONS**
- (a)  The Plan must provide to the Alternate Payee, or to the Alternate Payee's agent, a copy of the Summary Plan Description; any subsequent summaries of material modifications with respect to the Plan; and the Plan's QDRO procedures, if any.
  - (b)  Other (*specify*): \_\_\_\_\_

Date: \_\_\_\_\_

JUDICIAL OFFICER

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## INSTRUCTIONS FOR QUALIFIED DOMESTIC RELATIONS ORDER (EARNINGS ASSIGNMENT ORDER FOR SUPPORT)

### 1. DEFINITIONS OF IMPORTANT WORDS IN THE ORDER

- (a) **Alternate payee:** any spouse, former spouse, child, or other dependent of the Participant.
- (b) **Participant/Obligor:** any person ordered by a court to pay child support, spousal support, or family support who has an accrued benefit or account balance (whether or not vested) under a Plan.
- (c) **Agent:** any person, including the district attorney or other governmental agency, to whom the support is to be paid on behalf of an alternate payee.
- (d) **Payor/Plan:** any employee benefit plan described in Family Code section 80 that is not a governmental plan as defined in 29 U.S.C. § 1002(32). The term includes plans benefiting self-employed individuals such as partners and sole proprietors. If an entity other than the Plan pays benefits to participants under the Plan, the term Payor/Plan also includes that entity.
- (e) **QDRO:** an order that has been approved by the administrator of the Plan (or by a court of competent jurisdiction) as meeting the requirements for a qualified domestic relations order under 29 U.S.C. § 1056(d) or 26 U.S.C. § 414(p).
- (f) **Annuity:** a form of benefit in which periodic payments (usually monthly) are made for the life of the recipient and/or the recipient's survivor. This order applies to annuities and to any other form of benefit payment or distribution allowable under the Plan (e.g., single sum, installments, and other periodic payments).

### 2. TAX INFORMATION FOR PAYORS

Generally speaking, for federal income tax purposes, the Participant will be taxed on any child support paid from a Plan based on this order. Amounts paid by the Plan for spousal or family support generally will be taxable to the Alternate Payee for whose benefit those amounts are paid.

### 2. TAX INFORMATION FOR PAYORS (*continued*)

You should consult with your professional tax advisor on the specific tax treatment and reporting requirements applicable to distributions under this order.

### 3. OTHER INFORMATION FOR PAYORS

This order, which is an earnings assignment order, and you as the Payor are governed by Chapter 8, beginning with section 5200, of the Family Code and related provisions of that code and the Code of Civil Procedure. Your attention is directed particularly to the provisions of Chapter 8 that set forth your obligations as a Payor (referred to therein as the "Employer").

When benefits under the Plan are currently payable to the Participant, withholding under this order should commence as soon as possible but no later than 10 days after you receive the *Qualified Domestic Relations Order for Support*. If benefits are not currently payable but Participant has applied to receive benefits, or applies within 90 days after you receive this order or while the temporary restraining order contained in item 13 of this order is in effect, this order (including the temporary restraining order) applies to the benefits Participant has applied for and becomes entitled to receive under the terms of the Plan.

Once this order has been approved as a QDRO, all benefits withheld pursuant to the temporary restraining order must be disbursed in accordance with the terms of this order or, to the extent those benefits are not affected by this order, to the person or persons entitled to them under the terms of the Plan.

If you have any questions about this order, please contact the office that sent this form to you, as shown in the upper left-hand corner.

- ### 4. INFORMATION FOR ALL PARTICIPANTS:
- You should have received a *Request for Hearing Regarding Earnings Assignment* (form FL-450) with the *Qualified Domestic Relations Order for Support*. If not, you may get one from either the court clerk or the local child support agency. If you want the court to stop or modify the assignment of your benefits under the Plan, you must file (hand-deliver or mail) an original copy of form FL-450 with the court clerk within 10 days of the date you received this order. Keep a copy of the form for your records.

If you think your support order is wrong, you can ask for a modification of the order, or in some cases you can have the order set aside and a new order issued. You can talk to any attorney or visit the family law facilitator if you need more help.