

[Separate Interest – for benefits not yet in pay status]

STATE OF _____
IN THE CIRCUIT COURT FOR THE COUNTY OF _____

[PLAINTIFF'S NAME],

Case No. ____-____

Plaintiff,

Hon. _____

v

[DEFENDANT'S NAME],

Defendant.

_____/

Attorneys for Plaintiff

_____(P____)

_____, _____

____/____-____

_____/

Attorneys for Defendant

_____(P____)

_____, _____

____/____-____

DOMESTIC RELATIONS ORDER

At a session of the Court, held in the State of
_____, County of _____, on this _____ day
of _____, 20____.

PRESENT: HONORABLE

This order creates and recognizes the existence of an alternate payee's right to receive a portion of the participant's benefits payable under an employer sponsored defined benefit pension plan that is qualified under Section 401 of the Internal Revenue Code (the "Code") and the Employee Retirement Income Security Act of 1974 ("ERISA"). It is intended to constitute a qualified domestic relations order under ERISA §206(d) and Code §414(p).

This order is entered pursuant to the authority granted in the applicable domestic relations laws of the State of [insert name of applicable State] and relates to the provision of marital property rights or spousal support to the alternate payee as a result of the judgment of divorce between the participant and alternate payee.

This order assigns a portion of [Plaintiff's] [Defendant's] retirement benefits to [Plaintiff] [Defendant] as follows:

1. The plan subject to this order is the Sheet Metal Workers Local 7, Zone 2 Pension Plan.

2. The plan administrator is the joint board of trustees, whose address is:

Trustees of the Sheet Metal Workers Local 7, Zone 2
Pension Trust
c/o Watkins Ross
200 Ottawa Ave NW Suite 600
Grand Rapids MI 49503

3. The participant is _____, whose last known address and telephone number are:

Address: _____

Telephone Number: (____) _____

4. The alternate payee is _____, whose last known address and telephone number are:

Address: _____

Telephone Number: (____) _____

5. The participant and alternate payee were married on _____ and divorced on _____.

6. The alternate payee is assigned a portion of the participant's benefit under the plan as follows:

[use one subsection (a) and then continue with subsection (b) and following]

(a) [____%] of the marital portion of the participant's accrued benefit determined as of the date of divorce (the "*accrual date*"). The marital portion will be determined by a fraction with a numerator equal to the participant's credited service during the marriage and a denominator equal to the participant's credited

service as of the date of divorce. If there is a benefit increase after the accrual date that takes into account past service, the alternate payee's portion of the accrued benefit will be adjusted in a manner consistent with the assigned amount.

(a) [_____] % of the participant's accrued benefit [as of the last day of the plan year ending before the date of this order] [as of _____] (the "accrual date"). If there is a benefit increase after the accrual date that takes into account past service, the alternate payee's portion of the accrued benefit will be adjusted in a manner consistent with the assigned amount.

[if the following subsection (a) is used, omit subsection (c) and the second sentence of (d)]:

(a) [\$_____] per month beginning on the first day of the month after the participant attains the normal retirement age under the plan.

(b) The participant's benefit will be reduced by the portion assigned to the alternate payee.

(c) The alternate payee's benefit will be payable beginning on or after the participant's annuity starting date or, if earlier, the participant's earliest retirement date (*i.e.*, the earliest date when the participant, if retired, would be eligible to begin receiving a benefit under the terms of the plan).

(d) The alternate payee's benefit will be payable in the form of a single life annuity for the alternate payee's life unless the alternate payee elects an optional form of payment. The alternate payee may elect any optional form of payment available to alternate payees under the terms of the plan.

(e) [If the participant elects to receive an early retirement benefit under the terms of the plan, and if the early retirement benefit includes an early retirement subsidy, the alternate payee will be entitled to receive a pro rata share of the early retirement subsidy beginning on the participant's annuity starting date or, if later, the alternate payee's annuity starting date. As used in this subsection,

(1) *early retirement benefit* means a benefit starting under the terms of the plan before the participant's normal retirement date,

(2) *early retirement subsidy* means the excess, if any, of the participant's early retirement benefit over the actuarial equivalent of the participant's accrued benefit as of the participant's annuity starting date,

including the portion of the benefit assigned to the alternate payee, but taking into account only the benefit accrued as of the accrual date,

(3) *pro rata share* means the early retirement subsidy multiplied by a fraction with a numerator equal to the portion of the participant's accrued benefit assigned to the alternate payee and a denominator equal to the participant's accrued benefit, taking into account only the benefit accrued as of the accrual date, without any adjustment for the alternate payee's age or for the commencement of payment before or after the participant's normal retirement date.]

(f) [If the plan provides any cost-of-living increase after the participant's annuity starting date, the alternate payee will be entitled to a pro rata share of the increase. As used in this subsection, *pro rata share* means the cost-of-living increase multiplied by a fraction with a numerator equal to the portion of the participant's accrued benefit assigned to the alternate payee and a denominator equal to the participant's accrued benefit, taking into account all of the participant's accrued benefit, without any adjustment for the alternate payee's age or for the commencement of payment before or after the participant's normal retirement date.]

(g) The amount of any benefit payment to the alternate payee [, including the alternate payee's share of any early retirement subsidy or cost-of-living increase,] will be adjusted for the alternate payee's age, annuity starting date, form of payment, and any other factor affecting the actuarial cost of the benefit.

7. If the participant's benefit is not yet vested, the alternate payee's portion of the benefit will become vested only if and when the participant's benefit becomes vested.

8. The alternate payee will be considered a surviving spouse of the participant for all purposes under the plan, including the surviving spouse benefit, but only to the extent of the alternate payee's benefit under this order.

9. If the alternate payee dies before the alternate payee's annuity starting date, the alternate payee's benefit will revert to the benefit of the participant and the participant's beneficiaries. If the alternate payee dies on or after the alternate payee's annuity starting date, the benefit payable to a beneficiary of the alternate payee will be determined by the form of payment to the alternate payee.

10. The alternate payee shall include the taxable amount of the alternate payee's benefit in the alternate payee's gross income for federal income tax purposes (and corresponding state and local tax purposes).

11. As used in this order, the following terms have the following meanings whether or not the terms are capitalized:

(a) *accrued benefit* means the monthly amount payable as a single life annuity for the participant's life beginning at normal retirement age under the terms of the plan.

(b) *annuity starting date* means the first day of the first period for which a payment is received.

(c) *terms of the plan* means the terms of the plan as amended and in effect from time to time.

12. Nothing in this order will be interpreted or construed to require the plan or plan administrator to:

(a) provide any type or form of benefit or any option that is not otherwise provided under the terms of the plan;

(b) provide benefits in excess of the benefits to which the participant would have been entitled in the absence of this order; or

(c) pay benefits to the alternate payee that are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

13. The alternate payee shall provide the plan administrator with the alternate payee's Social Security number and a copy of the alternate payee's birth certificate and shall notify the plan administrator in writing of any change of name, address, or telephone number.

14. The alternate payee shall serve a certified copy of this order on the plan administrator.

15. This order is intended to be a qualified domestic relations order under section 206(d)(3) of the Employee Retirement Income Security Act of 1974 as amended and section 414(p) of the Internal Revenue Code of 1986 as amended. The Court will retain jurisdiction to clarify this order if the plan administrator has questions about interpretation or determines that the order does not qualify under ERISA or the Code.

16. In the case of conflict between the terms of this order and the terms of the plan, the terms of the plan shall prevail.

CERTIFIED AS TRUE COPY

Clerk of the Court

Circuit Judge

APPROVED AS TO FORM AND CONTENT:

Plaintiff

Attorney for Plaintiff

Defendant

Attorney for Defendant

TO BE OMITTED FROM THE PUBLIC RECORD
ATTACHMENT TO THE QUALIFIED DOMESTIC RELATIONS ORDER IN

Case No. __-____-D_

[NAME]

Social Security Number:

Date of Birth:

Phone No.: (____)

[NAME]

Social Security Number:

Date of Birth:

Phone No.: (____)