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In Pro Per

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF \_\_\_\_\_**

Marriage of,  
  
Petitioner: \_\_\_\_\_  
\_\_\_\_\_  
And  
  
Respondent: \_\_\_\_\_  
\_\_\_\_\_  
  
Claimant: Alameda County Employees'  
Retirement Association

Case No.: \_\_\_\_\_

**AGREEMENT AND ORDER FOR**  
**DIVISION OF RETIREMENT BENEFITS**  
**(SEPARATE RECORDS)**

1. Introduction. The Petitioner and Respondent have secured a court filed Final Judgment filed on \_\_\_\_\_ in the dissolution proceeding. The Petitioner or Respondent has secured a court filed Order of Joinder filed on \_\_\_\_\_ in this dissolution proceeding. Through employment with Alameda County, \_\_\_\_\_ (“Member”) has earned retirement benefits administered by the Alameda County Employees’ Retirement

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Association (ACERA) that are the community property of Member and \_\_\_\_\_ (“Nonmember”). Member and Nonmember intend by this agreement and order to divide those retirement benefits between them.

2. Identification of Member. Member’s name, current mailing address, and date of birth are:

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

Current mailing address: \_\_\_\_\_

\_\_\_\_\_

Date of birth: \_\_\_\_\_

3. Identification of Nonmember. Nonmember’s name, current mailing address, and date of birth are:

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

Current mailing address: \_\_\_\_\_

\_\_\_\_\_

Date of birth: \_\_\_\_\_

4. Notice of Change of Address. Notice of change of address shall be made in writing to ACERA, addressed as follows, or as ACERA may specify in a written notice to Member and Nonmember:

Alameda County Employees’ Retirement Association  
475 14th Street, Suite 1000  
Oakland, CA 94612

5. Dates of Marriage and Separation. For purposes of this order, the parties’ date of marriage will be \_\_\_\_\_, and their date of separation will be \_\_\_\_\_.

6. Division of Community Interest. Fifty Percent (50%) of the community interest (defined in Paragraph 7) of Member and Nonmember in the overall ACERA benefits earned through Member’s employment with Alameda County is awarded to Nonmember.

7. Community Defined Interest. The community interest will be the accumulated retirement contributions (including all earnings attributable to those contributions, regardless of

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when the earnings were credited) and service credit attributable to Member's service between the date of marriage and the date of separation.

8. Purchases or Redeposits. When there have been purchases or redeposits, the community interest will include the corresponding retirement contributions, earnings, and service credit to the extent that the underlying service was attributable to Member's service between the date of marriage and the date of separation.
9. Member's Interest. All accumulated retirement contributions, earnings, and service credit attributable to Member's service that are not awarded to Nonmember under this order are awarded to Member.
10. Division of Interest. As soon as practicable after determining that this order is acceptable under the County Employees Retirement Law of 1937 (Government Code, sections 31450–31899.10) and ACERA regulations, ACERA will divide Member's accumulated retirement contributions, earnings, and service credit, establishing a separate account for Nonmember's share, and notify Nonmember of all Nonmember's rights, elections to be made by Nonmember, and procedures for filing applications for retirement and for a refund of contributions.
11. Release of Information. Member hereby authorizes ACERA to release to Nonmember any information concerning Member's benefits until Nonmember's separate account is established
12. Refund of Accumulated Retirement Contributions. Notwithstanding any other provision of this agreement and order, if Member does not have five years of accumulated ACERA service credit as of the date of separation, Nonmember will receive a refund of the accumulated ACERA retirement contributions that have been transferred to Nonmember's account, along with any earnings attributable to those contributions, as soon as administratively practicable following the establishment of the account.
13. Nonmember's Rights. From the date of establishment of Nonmember's account, Nonmember may be entitled to the following as described in Government Code, section 31685(c), including:

- 1 (1) The right to a retirement allowance;
  - 2 (2) The right to a refund of accumulated retirement contributions;
  - 3 (3) The right to redeposit accumulated contributions that are eligible for redeposit by the
  - 4 member;
  - 5 (4) The right to purchase service credit that is eligible for purchase by the member;
  - 6 (5) The right to designate a beneficiary to receive Nonmember's accumulated
  - 7 contributions payable when death occurs before retirement; and
  - 8 (6) The right to designate a beneficiary for any unpaid allowance payable at the time of
  - 9 Nonmember's death.
- 10 14. Cost-of-Living Increases. Nonmember's account will be increased by all applicable
- 11 earnings and cost-of-living increases to the extent permitted under applicable law and
- 12 regulations.
- 13 15. Disability Retirement Allowance. If Member receives a disability retirement allowance
- 14 pursuant to Government Code, sections 31727 or 31727.4 and Member's credited service
- 15 is not a factor in determining the amount of such allowance, the amount otherwise
- 16 payable to Member or any survivor continuance beneficiaries each month will be reduced
- 17 so that benefit payments to the Member and Nonmember combined do not exceed the
- 18 amount that would otherwise be payable to the Member alone. Member's and any
- 19 surviving continuance beneficiaries' monthly disability retirement allowance will be
- 20 reduced as follows:
- 21 (a) if Nonmember has retired, by the amount payable to Nonmember or any survivor
  - 22 continuance beneficiaries of Nonmember each month;
  - 23 (b) if Nonmember has taken a refund of accumulated contributions, by the actuarial
  - 24 valuation of the monthly value of Nonmember's refund throughout the expected
  - 25 lifetimes of Member and any survivor continuance beneficiaries of Member; or
  - 26 (c) if Nonmember has neither retired nor taken a refund, by the actuarial valuation of the
  - 27 present monthly value of Nonmember's account at the time Member retires
  - 28 throughout the expected lifetimes of Member and any survivor continuance

1 beneficiaries of Member.

2 16. Nonmember's Entitlement to Disability Retirement Allowance. Nonmember will not be  
3 entitled to any disability retirement allowance.

4 17. Joinder of County. To provide for the possibility that part of the benefits payable will be  
5 paid by Alameda County (County) because the amount payable exceeds the maximum  
6 amount that ACERA is permitted to pay under Internal Revenue Code, section 415(b),  
7 this agreement and order will, to the extent (if any) that benefits will be paid by County,  
8 apply to County as well as ACERA. The parties understand that for this agreement and  
9 order to be enforceable against County, however, County will have to be joined as a party  
10 to this action, served with a copy of this agreement and order, and given 30 days after  
11 service in which to object to the agreement and order.

12 18. Death of Member Before Retirement. If Member dies before retirement and an amount  
13 based on Member's compensation is payable, under California Government Code,  
14 sections 31781(b) or 31781.3(a), to Member's beneficiary(ies) or estate, a portion of that  
15 amount will be payable to Nonmember if Nonmember survives Member and, if not, to  
16 Nonmember's designated beneficiary or, if none, to Nonmember's estate. That portion  
17 will be one half of that fraction of the amount payable whose numerator is Member's  
18 credited service under ACERA from the date of marriage through the date of separation  
19 and whose denominator is Member's total credited service under ACERA.

20 19. Death of Member After Retirement. If Member dies after retirement, a portion of the  
21 lump-sum death benefit will be payable to Nonmember if Nonmember survives Member  
22 and, if not, to Nonmember's designated beneficiary or, if none, to Nonmember's estate.  
23 That portion will be one half of that fraction of the death benefit whose numerator is  
24 Member's credited service under ACERA from the date of marriage through the date of  
25 separation and whose denominator is Member's total credited service under ACERA.

26 20. Purchases by Member After Nonmember Withdrawal/Refund. If Nonmember receives a  
27 refund based on section 13 hereunder, the Member may elect to redeposit accumulated  
28 contributions and interest refunded to the Nonmember and to receive credit for the

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service time that had been forfeited by the Nonmembers. The election by Member must be made within five years of receipt of notice from ACERA of eligibility to redeposit the contributions and interest.

21. Cooperation of Parties. Member and Nonmember will cooperate in performing all acts reasonably necessary to effectuate the terms and intent of this agreement and order.

22. Payment of Taxes Applicable to Share. Member and Nonmember will each be solely responsible for payment of any tax due on any distributions that he or she receives from ACERA. If either party is required for any reason to pay a tax on all or any portion of any distribution or payment received by the other, the receiving party will reimburse the paying party and indemnify the paying party against liability for any taxes due with respect to amounts received by the receiving party.

23. Attorney Fees. As between Member and Nonmember, the prevailing party in any action or proceeding to enforce any provision of this agreement will be awarded reasonable attorney fees and costs.

24. Savings Clause. Nothing contained in this agreement and order may be construed to require ACERA to provide any benefit or option not otherwise available under ACERA and applicable law or to require ACERA to make payments in any manner that will result in an increase in the amount of benefits provided by ACERA.

25. Reservation of Jurisdiction. The court will reserve jurisdiction to make further orders to implement the division of retirement benefits provided under this order.

The foregoing is agreed to by:

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

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

The foregoing agreement is hereby approved and made the order of this Court.

Date: \_\_\_\_\_  
Judge of the Superior Court

1 A notary public or other officer completing this certificate verifies only the identity of the individual who signed the  
2 document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

3 **ACKNOWLEDGEMENTS**

4 STATE OF CALIFORNIA )

5 County of \_\_\_\_\_)

6 On \_\_\_\_\_, before me, \_\_\_\_\_,

7 Notary Public, personally appeared \_\_\_\_\_,

8 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are

9 subscribed to the within instrument and acknowledged to me that he/she/they executed the same

10 in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument

11 the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

12 I certify under PENALTY OF PERJURY under the laws of the State of California that the

13 foregoing paragraph is true and correct.

14 WITNESS my hand and official seal.

15 \_\_\_\_\_  
Notary Public

16 STATE OF CALIFORNIA )

17 County of \_\_\_\_\_)

18 On \_\_\_\_\_, before me, \_\_\_\_\_,

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