

**SAMPLE QDRO FOR THE
WESTERN METAL INDUSTRY PENSION PLAN**

DIVORCE BEFORE RETIREMENT

The following sample QDRO has been developed for the Western Metal Industry Pension Plan. It is intended to provide sample language to assist parties in preparing a "separate interest" QDRO for this plan. This type of QDRO is commonly used when a divorce occurs before retirement. Under a separate interest QDRO, both the participant and his or her former spouse get an annuity payable over their own lifetimes.

The document is a sample only. It does not:

1. Contain all of the provisions that may be included in a QDRO; or
2. Address all of the issues that may arise in the course of preparing a QDRO.

In short, the use of the sample QDRO is not a substitute for competent legal counsel who is familiar with defined benefit pension plans. This sample order does not constitute legal advice regarding the terms of any QDRO and should not be relied upon as such.

Whether or not you use the sample language, you should provide a draft of your QDRO for review prior to submitting the order to the court. The draft order should be sent to the Trust Office. A sample transmittal letter is provided.

Please note that before any benefits are payable to either party, proof of age will be required for both parties.

ADVANCE REVIEW OF A DRAFT QDRO WILL SAVE TIME AND MONEY FOR ALL PARTIES.

[SAMPLE TRANSMITTAL LETTER]

[Date]

Board of Trustees
Western Metal Industry Pension Plan
PO Box 34203
Seattle, WA 98124-1203

Re: QDRO- [Participant] and [Alternate Payee]

Dear Plan Administrator:

Enclosed is a [draft] [court approved] Qualified Domestic Relations Order ("Order") impacting the benefits of [Participant] under the Western Metal Industry Pension Plan.

As noted in the Order, the social security number and date of birth of the Participant and Alternate Payee will be provided separately. They are as follows:

Participant

Participant:	[Participant's Name]
Social Security Number:	[Participant's SSN]
Date of Birth:	[Participant's Birth Date]

Alternate Payee

Alternate Payee:	[Alternate Payee's Name] [Alternate
Social Security Number:	Payee's SSN] [Alternate Payee's Birth
Date of Birth:	Date]

If further information is needed in connection with this QDRO, please contact [Name] at [Number].

Sincerely,

[Name]
Counsel for [Participant] [Alternate Payee] cc:

[Name], Counsel for [Participant] [Alternate Payee]

I [Sample Separate Interest QDRO - Pre-Retirement Divorce]

2
3
4
5
6 IN THE SUPERIOR COURT OF THE STATE OF [STATE]
IN AND FOR THE COUNTY OF [COUNTY]

7 IN RE THE MARRIAGE OF:

8 [PETITIONER'S NAME],

9 Petitioner,

10 v.

11 [RESPONDENT'S NAME],

12 Respondent.

NO. _____

QUALIFIED DOMESTIC RELATIONS
ORDER- Western Metal Industry
Pension Plan

13
14 WHEREAS, the Court has jurisdiction over all parties and over the subject matter in this
dissolution action; and

15 WHEREAS, the parties to this Order and the Court intend this Order to be a Qualified
Domestic Relations Order (hereinafter referred to as "Order" or "QDRO") as that term is
16 used in the Retirement Equity Act of 1984, as amended, and interpreted in accordance with
that Act; and

17 WHEREAS, the parties have stipulated that the Court shall enter this Order as an Addendum to
the Decree of Dissolution of Marriage filed herein on [date filed with court];

18 NOW, THEREFORE,

19 IT IS HEREBY ORDERED by the Court as follows:

20 1. **Definitions.** The following are the definitions used in this Order:

21 I. I "Participant": [Participant's Name]

22 Address: [Address]

[City, State, ZIP]

23
QUALIFIED DOMESTIC RELATIONS

The Participant's social security number and date of birth will be provided separately to the Plan Administrator.

- 1.2 "Alternate Payee": *[Alternate Payee's Name]*
 Relationship to Participant: *[Relationship to Participant (e.g. former spouse)]*
- Address: *[Address]*
[City, State, ZIP]

The Alternate Payee's social security number and date of birth will be provided separately to the Plan Administrator.

- 1.3 "Plan": Western Metal Industry Pension Plan
- 1.4 "Plan Administrator": Board of Trustees
 Western Metal Industry Pension Plan
 Address: PO Box 34203
 Seattle, WA 98124

2. Division of Marital Property. This Order is entered pursuant to *[describe applicable state domestic relations law]*. This Order hereby creates and recognizes the existence of the Alternate Payee's right to receive a portion of the Participant's benefits under the Plan.

3. Factual Basis for Order. This Order is based on the following facts:

- 3.1 Participant is vested;
- 3.2 Participant is [age] years of age; and
- 3.3 Participant at the time of entry of this order is not receiving retirement benefits under the Plan.

4. Amounts Awarded to Alternate Payee.

4.1 Retirement Benefits Assigned to Alternate Payee

Alternate Payee is awarded a portion of the Participant's accrued benefit in the Plan, as calculated on the Alternate Payee's benefit commencement date.

(a) Division of Amounts Earned During the Marriage

The Alternate Payee is awarded 50% of the benefit earned by the Participant between [date of marriage] and [date of separation/divorce].

(b) Separate Life Annuity for Alternate Payee

Alternate Payee's benefits shall be paid as a separate Life Annuity based upon the lifetime of the Alternate Payee (and shall include any minimum payment guarantee period that may be provided under the terms of the Plan or otherwise elected by the Alternate Payee).

(c) Alternate Payee's Benefit Commencement Date

Alternate Payee's benefits shall commence upon application by Alternate Payee at any time after Participant reaches the earliest retirement age under the Plan as provided in Internal Revenue Code Section 414(p)(4), but not later than the Participant's commencement of benefits and not later than the required beginning date under the Plan.

(d) Actuarial Assumptions Used to Calculate Alternate Payee's Monthly Benefit Payments

The level of benefit payments shall be calculated as the actuarial equivalent as defined by the Plan.

In the case of any payment before Participant has retired, Alternate Payee's benefits shall not take into account the present value of any subsidy for Early retirement; however, if Participant later takes early retirement following commencement of Alternate Payee's benefits and receives a subsidized early retirement benefit, the amount payable to Alternate Payee shall be recalculated prospectively to reflect the subsidized factors for early retirement at the Participant's retirement age.

(e) Post-Retirement Benefit Improvements

Alternate Payee [is/is not] entitled to share in "thirteenth" benefit checks or any other post-retirement benefit improvements or ad-hoc benefit payments (if any).

1 **4.2 Pre-Retirement Death Benefit Provisions**

2 (a) Pre-Retirement Death of Participant

3 If Participant dies prior to commencement of Alternate Payee's benefits, and Alternate Payee
4 survives Participant, Alternate Payee shall not be entitled to
5 receive the benefit described in Section 4.1 of this order.

6 Instead, Alternate Payee shall be Participant's sole surviving spouse for purposes of any pre-
7 retirement death benefits earned from [date of marriage] to
8 [separation/divorce date].

9 (b) Pre-Retirement Death of Alternate Payee

10 If Alternate Payee dies prior to commencement of her benefits, her benefits shall revert to
11 Participant for payment to Participant pursuant to the terms of the
12 Plan. Accordingly, if the Participant dies prior to commencement of Alternate Payee's benefits
13 and Alternate Payee has not survived Participant, pre-retirement death benefits, if
14 any shall be payable to the Participant's designated beneficiary.

15 **5. Limitations on Order.** Nothing contained in this Order shall be construed to require
16 the Plan:

17 5.1 To provide for any type or form of benefits, or any option, not
18 otherwise provided under the Plan at the time benefits commence to the Alternate Payee;

19 5.2 To provide increased benefits (determined on the basis of actuarial value) not
20 available to the Participant;

21 5.3 To provide benefits to the Alternate, Payee which are required to be
22 paid to another Alternate Payee under another order previously determined to be a QDRO; or

23 5.4 To provide the payment to the Alternate Payee of benefits forfeited by
24 the Participant.

25 **6. Action to Be Taken.** The Plan Administrator shall be provided with a copy of the
26 Order by counsel for the Alternate Payee. Upon receipt, the Plan Administrator shall:

27 6.1 Immediately notify the Participant and the Alternate Payee of:

28 (a) The receipt of this Order; and

1 (b) The Plan's procedures for determining whether this Order is a,
2 QDRO.

3 6.2 Within a reasonable period of time, determine if this Order is a,
4 QDRO, and notify the Participant and Alternate Payee of such determination.

5 6.3 Pending determination of a proposed order's status as a QDRO, separately
6 account within the Plan for the amount ("segregated amounts") which would
7 have been payable to the Alternate Payee (if this order is established to be a QDRO) during
8 the determination period, as defined in Internal Revenue Code Section 414(p)(7). No
9 segregation is necessary if benefits are not payable during the determination period.

10 **Continuing Jurisdiction.** The Court retains jurisdiction over this matter to
11 amend this order to establish or maintain its status as a QDRO under the Retirement Equity
12 Act of 1984, as amended.

13 DONE IN OPEN COURT this ___ day of *[month]*, *[year]*.

14 _____
15 JUDGE/COURT COMMISSIONER

16 Presented by:

17 *[NAME OF ATTORNEY'S OFFICE]*

18 By _____

19 *[NAME OF ATTORNEY]*

20 Bar No. *[00000]*

21 Attorney for Respondent

22 Copy Received, Approved for Entry,
23 Notice of Presentment Waived:

24 *[NAME OF ATTORNEY'S OFFICE]*

25 _____
26 *[NAME OF ATTORNEY]*

27 Bar No. *[0000]*

28 Attorney for Petitioner