

This document is prepared by:

Attorney for Plaintiff Defendant

Name: _____

Address: _____

Telephone: (_____) _____ - _____

STATE OF HAWAI'I
FAMILY COURT

_____ CIRCUIT

Plaintiff (name),

v.

Defendant (name),

FC-D No. _____

HAWAII DOMESTIC RELATIONS ORDER
FOR THE EMPLOYEES' RETIREMENT
SYSTEM OF THE STATE OF HAWAII
(POST-RETIREMENT)

Judge: _____

HAWAII DOMESTIC RELATIONS ORDER FOR THE EMPLOYEES'
RETIREMENT SYSTEM OF THE STATE OF HAWAII (POST-RETIREMENT)

A hearing was held before the Presiding Judge or the Court waived hearing on the matter. After full consideration of the evidence,

IT IS HEREBY ORDERED, ADJUDGED and DECREED that:

1. This Hawaii Domestic Relations Order for the Employees' Retirement System of the State of Hawaii ("Order") is intended to meet the requirements for a "Hawaii domestic relations order" ("HiDRO") set forth in Section 88-93.5 of the Hawai'i Revised Statutes ("HRS") and Sections 6-40-1, et seq., of the Hawai'i Administrative Rules ("HAR"), and upon determination by the Employees' Retirement System of the State of Hawaii ("ERS" or "System") that this Order meets the requirements for a HiDRO, this Order shall supersede and replace all prior orders between the same parties intended to meet or meeting the requirements for a HiDRO. This Order is an integral part of the Decree of Divorce filed by the court on

_____ (date), (check if post decree orders/stipulations apply) and the _____ (name of post decree order/stipulation) filed by the court on _____ (date).

2. This Order creates or recognizes the right of the alternate payee identified in Paragraph 4 below ("Alternate Payee"), or assigns to the Alternate Payee, to receive a portion of the benefits

payable with respect to the member or retirant identified in Paragraph 3 below (“Retirant”) under the System.

3. The RETIRANT of the System is:

Plaintiff Defendant (check one)

Name: _____

Mailing address: _____

Telephone: (_____) _____ - _____

Social Security No: XXX – XX - _____

Former Employer: _____

Former Employer’s address: _____

4. The ALTERNATE PAYEE (spouse or former spouse) is:

Plaintiff Defendant (check one)

Name: _____

Mailing address: _____

Telephone: (_____) _____ - _____

Social Security No: XXX – XX - _____

5. Retirant and Alternate Payee were married on _____ (date).

6. **RETIREMENT BENEFITS.** As part of the division of the property of the parties, the Alternate Payee is awarded a portion of each distribution of retirement benefits made by the System pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336, if and at the time the retirement benefits become payable to the Retirant, as provided by and subject to the System’s governing laws and rules, and Paragraphs 7, 8 and 9 below. The Alternate Payee’s portion of the Retirant’s monthly retirement allowance under the retirement allowance payment option elected by the Retirant and remaining after payments required to be paid to other alternate payees pursuant to earlier HiDROs, shall be (check one):

A. A percentage determined by the following formula:

$$\begin{array}{r}
 \frac{\text{_____ \%}}{\text{(fractional marital property interest)}} \times \frac{\text{Months of service credits the System determines has been credited to the Retirant from _____ (date of marriage) through _____ (date of divorce)}}{\text{Total months of service credit the System determines has been credited to the Retirant upon retirement}}
 \end{array}$$

- B.** A percentage determined by the following formula:

$$\frac{\text{(fractional marital property interest)}}{\%} \times \frac{\text{Months of service credits the System determines has been credited to the Retirant from } \underline{\hspace{10em}} \text{ (date) through } \underline{\hspace{10em}} \text{ (date)}}{\text{Total months of service credit the System determines has been credited to the Retirant upon retirement}}$$

- C.** A percentage determined by the following formula:

$$\frac{\text{(fractional marital property interest)}}{\%} \times \frac{\text{_____ (number) of months of service credits, or the total months of service credits the System determines has been credited to the Retirant, whichever is less}}{\text{Total months of service credit the System determines has been credited to the Retirant upon retirement}}$$

- D.** _____ (numerical percentage) %.

- E.** \$ _____ (numerical dollar amount), or the total distribution payable to the Retirant, whichever is less.

- F.** None.

Payments to the Alternate Payee, subject to Paragraphs 7, 8 and 9 below, shall commence as of the first day of the month following the date upon which the Order is determined to be a HiDRO. Payments to the Alternate Payee, subject to Paragraphs 7, 8 and 9 below, shall terminate upon the death of the Retirant, or upon the death of the Alternate Payee, whichever is earlier.

7. When the System receives a certified copy of this Order subsequent to the Retirant's retirement, and if this Order is determined to be a HiDRO, the portion awarded to the Alternate Payee by the Order shall be paid as a portion of the retirement benefit the Retirant is receiving pursuant to HRS §§ 88-73, 88-75, 88-79, 88-281, 88-284, 88-285, 88-331, 88-334 and/or 88-336 as follows:

- A.** If the Alternate Payee is already a named beneficiary under any option elected by the Retirant at retirement, the benefit to which the Retirant is entitled, without regard to the Order, shall be apportioned between the Retirant and the Alternate Payee according to the terms of the Order. Upon the death of the Retirant or the Alternate Payee, the benefit amount to be paid to the survivor shall be the amount

required under the option elected by the Retirant at retirement, as though this Order had not existed; or

- B.** If the Alternate Payee is not a named beneficiary under the option elected by the Retirant at retirement, the benefit to which the Retirant is entitled without regard to the Order, shall be apportioned between the Retirant and the Alternate Payee according to the terms of the Order. If the Retirant predeceases the Alternate Payee, payments to the Alternate Payee shall cease and payments to the Retirant's named beneficiary or beneficiaries shall be made as required under the option elected by the Retirant at retirement, as though this Order had not existed. If the Alternate Payee predeceases the Retirant, the benefit then being paid to the Retirant shall be increased by the amount of the benefit that was being paid to the Alternate Payee at time of death.

8. When the System has not yet begun to make payment to the Alternate Payee under this Order and is provided with proof of the death of the Alternate Payee, benefits payable with respect to the Retiree shall be paid without regard to this Order.

9. If the Retirant returns to employment requiring active membership in the System:

- A.** Payments to the Alternate Payee pursuant to the Order shall not be suspended; and
- B.** The System shall pay to the Alternate Payee no portion of any benefits payable to the Retirant that result from the resumption of membership, even if those benefits result in part from reinstatement of service credit initially credited during marriage.

10. Any amount payable by the ERS, other than those payable to the Alternate Payee under Paragraph 6 above, shall be payable directly to the Retirant, the Retirant's beneficiaries, or the estate, heirs, or legatees of either, in accordance with the System's laws and rules. If the Retirant, or the beneficiary or estate of either, receives the amount of any distribution that has been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the person to whom the amount should have been paid. If the Alternate Payee, or the estate, heirs, or legatees of the Alternate Payee receive any amount of a distribution that has not been awarded to the Alternate Payee, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the Retirant or other person to whom the amount should have been paid. If the Retirant, Retirant's beneficiary, Alternate Payee, or their estate, heirs, or legatees, receives any amount that should not have been paid by the System, the recipient shall be designated a constructive trustee for the amount received and shall immediately transmit that amount to the System.

11. The Alternate Payee is ordered to report any payments received from the System on any applicable income tax return in accordance with the Internal Revenue Code provisions or regulations in effect at the time any payments are issued by the ERS. The System is authorized to

issue a Form 1099R, or other applicable form on any direct payment made to the Alternate Payee.

12. The Alternate Payee is ordered to provide the System with prompt notification of any changes in the Alternate Payee's direct deposit and mailing address. The System shall not be liable for failing to make payments to the Alternate Payee if the System does not have current direct deposit information for the Alternate Payee at the time of payment. Nor is the System liable for the non-receipt of a Form 1099R if the ERS does not have current mailing address information at the time of issue.

13. The Retirant or the Alternate Payee shall furnish an original certified copy of this Order to the ERS. The Order is not a qualified HiDRO until an original copy is received by the ERS and is thereafter so deemed pursuant to HRS § 88-93.5, as revised, and HAR § 6-40-1, et seq.

14. This Order shall not be interpreted in any way to:

- A.** Require the designation by the Retirant of a particular person as the recipient of benefits upon the death of the Retirant;
- B.** Require the selection of a particular benefit payment plan or option or to limit the benefit payment plans or options from which the Retirant may select;
- C.** Require any action on the part of the System contrary to its governing laws or plan provisions other than the direct payment of the benefit awarded to the Alternate Payee;
- D.** Award the Alternate Payee an interest that is contingent on any condition other than those conditions resulting in the liability of the System for payment under its plan provisions;
- E.** Give to someone other than the Retirant the right to designate a beneficiary or to choose any retirement plan or option available from the System;
- F.** Attach a lien to any part of amounts payable with respect to the Retirant;
- G.** Require the System to make a lump sum payment of the awarded portion of the benefits to the Alternate Payee that are not otherwise payable in a lump sum;
- H.** Require the System to terminate the Retirant from membership or employment, to refund contributions, or to retire the Retirant;
- I.** Provide any type or form of benefit, or any option, not otherwise provided by the System;
- J.** Provide increased benefits, determined on the basis of actuarial value; or

INSTRUCTIONS FOR HAWAII DOMESTIC RELATIONS ORDER
FOR THE EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII
(POST-RETIREMENT FORM ERS-301 ONLY)

These instructions are for the completion of a Hawaii Domestic Relations Order (HiDRO) for the Employees' Retirement System of the State of Hawaii (ERS), and are specific to a post-retirement order to be filed and qualified after the retirement of a member or former member with vested status (member). If the member is not retired, a pre-retirement form should be used. A Divorce Decree or Complaint for Divorce **cannot** be used in place of this form.

A Hawaii Domestic Relations Order allows the ERS to directly pay all or a portion of a retiree's monthly retirement payment to an alternate payee, such as a spouse or former spouse. To be valid, this form must be signed and filed, or domesticated, by a State of Hawaii Court, and then qualified by the ERS. A completed Request for Review (form ERS-302), and fee of \$300 (check made payable to the Employees' Retirement System of the State of Hawaii) must also accompany this form before it is reviewed for qualification by ERS.

General information about the ERS plan and options for members and retirees is available at the ERS website (ers.hawaii.gov). If more information about a specific retiree's account is needed prior to filing a HiDRO form, submit a Request for Information (form ERS-303, found at <https://ers.hawaii.gov/hidro>). While the ERS can provide information about the plan, benefits and procedures, it cannot provide you with legal advice. Information provided should not be relied on as a determination of any legal issues under state law. You should consult an attorney to protect your interest in ERS benefits and determine your statutory rights under state law.

Please ensure that the current version of the HiDRO model form (ERS-300 or ERS-301) is being used to prevent rejection of your submission. The ERS will reject the submission of a prior version of the HiDRO model form if submitted more than 9 months after the date a superseding (current) HiDRO model form has been approved by the ERS Board of Trustees. The current forms are posted at <https://ers.hawaii.gov/hidro>.

Read and fill out the form completely to avoid any unnecessary fees.

INSTRUCTIONS (by the paragraph number on the form)

Caption (the top half of page 1). Enter the name, address and telephone number of the party preparing the document. Enter the name of the court, names of parties, case number, and name of judge.

Paragraph numbers:

1. Enter the date the Divorce Decree was filed by the court. If there is any post decree order or stipulation, enter a checkmark in the box, enter the name of post decree order or stipulation, and enter the date the post decree order or stipulation was filed by the court.
3. Enter the name and information of the retirant (retiree), and checkmark whether the retiree is the plaintiff or defendant in the Divorce Decree.
4. Enter the name and information of the alternate payee, and checkmark whether the alternate payee is the plaintiff or defendant in the Divorce Decree.
5. Enter the date of marriage (month, day, year).
6. Applies to the retiree's **monthly retirement payment. Choose only one (A, B, C, D, E or F):**
 - **Checkmark A** if the portion paid to the alternate payee is to be determined by the formula using the retiree's service credits from the date of marriage to date of divorce. In the line above the "(fractional marital property of interest)," enter the numerical percentage to be used. In the top right of the formula, enter the dates of marriage and divorce. The bottom right of the formula will be the retiree's total service credits at the time of retirement as determined by the ERS.

- **Checkmark B** if the portion paid to the alternate payee is to be determined by the formula using the retiree’s service credits from a designated start date to a designated end date (other than the dates of marriage and divorce). In the line above the “(fractional marital property of interest),” enter the numerical percentage to be used. In the top right of the formula, enter the start and end dates. The bottom right of the formula will be the retiree’s total service credits at the time of retirement as determined by the ERS.
- **Checkmark C** if the portion paid to the alternate payee is to be determined by the formula using a designated number of the retiree’s service credits (other than service credits from the dates of marriage to divorce, or designated start and end dates), not to exceed the total months of service credits the System determines has been credited to the retirant. In the line above the “(fractional marital property of interest),” enter the numerical percentage to be used. In the top right of the formula, enter the number of service credits (in months). The bottom right of the formula will be the retiree’s total service credits at the time of retirement as determined by the ERS.
- **Checkmark D** if the portion to the alternate payee is a designated numerical percentage of the entire monthly pension payment. Enter the numerical percentage.
- **Checkmark E** if the portion to the alternate payee is a designated numerical dollar amount, not to exceed the total distribution payable to the retiree. Enter the numerical dollar amount.
- **Checkmark F** if none of the retiree’s pension monthly pension payment will be distributed to the alternate payee.

Numerical percentages should be entered using no more than three decimal digits (e.g., 33.333).

Signatures. The judge’s signature must be obtained after completing the form. The court may require that the signatures of the parties and attorneys (if applicable) be obtained. If the HiDRO form is signed and filed by a court other than a State of Hawaii Court, domestication must also be obtained from a Hawaii court.

Footer (the bottom of the last page). Enter the name of the parties, court, and case number.

Submit an original certified copy of the court-filed HiDRO form (and domestication if applicable), a completed Request for Review (form ERS-302, found at <https://ers.ehawaii.gov/hidro>), and a nonrefundable \$300 fee, to the Employees’ Retirement System, 201 Merchant Street, Suite 1400, Honolulu, HI 96813, or call us (808-586-1735) for Neighbor Island locations. If submitted by a third-party (such as an attorney) on behalf of a retiree or alternate payee, also submit a letter containing the original signature of the retiree or alternate payee verifying that the third-party is authorized to act on the retiree or alternate payee’s behalf. Upon receipt, the ERS will begin review of the court-filed HiDRO form for qualification.

(Rev. 2022-09-13)

Employees' Retirement System of the State of Hawaii
201 Merchant St, Suite 1400
Honolulu, Hawaii 96813-2980
(808) 586-1735 <http://ers.ehawaii.gov/>

**REQUEST FOR REVIEW OF HAWAII DOMESTIC RELATIONS ORDER
OR PROPOSED HAWAII DOMESTIC RELATIONS ORDER**

INSTRUCTIONS: This is a form to request review of a Hawaii Domestic Relations Order (HiDRO) Model Form for Pre-Retirement (Form ERS-300) or Post-Retirement (Form ERS-301) to the Employees' Retirement System.

A non-refundable fee of \$300 is required for each review. Submit the following to the address stated above:

- _____ An original certified-copy of a court-entered HiDRO Model Form, or proposed HiDRO Model Form (absent court-entry);
- _____ This form (completed with an original signature); and
- _____ Payment of the fee for review (\$300) by check, made payable to Employees' Retirement System.
- _____ For a proposed HiDRO (absent court-entry), if the Requestor is a former/spouse, an original certified copy of the court-filed Complaint for Divorce **OR** an original certified copy of the court-entered Divorce Decree.

SECTION A: REQUESTOR'S INFORMATION

Name of Requestor*: _____

Care of (Requestor's third-party representative, if any)**: _____

Address: _____

Phone Number _____

Court Case Number _____ Date of Court Filing*** _____

ERS Member/Retirant Name: _____ Full SSN: _____ - _____ - _____

Alternate Payee Name: _____ Full SSN: _____ - _____ - _____

Alternate Payee's Date of Birth: _____ (month) / _____ (day) / _____ (year)

* Requests must be made by an ERS member/vested former member/retirant or spouse/former spouse of the preceding.

** Requests submitted by a third-party (such as an attorney) on behalf of a Requestor will not be processed unless the ERS is provided with a letter containing the original signature of the Requestor verifying that the third-party is authorized to act on their behalf.

*** Leave blank if request is for a Proposed HiDRO.

SECTION B: REQUEST REVIEW OF (check one):

_____ **Court-entered HiDRO:** A court-entered HiDRO Model Form may be submitted for review and determination of whether it is or is not qualified as a HiDRO. **Only court-entered HiDRO Model Forms are eligible for determination by the Employees' Retirement System that it is or is not qualified as a HiDRO.**

_____ **Proposed HiDRO:** A proposed HiDRO Model Form (absent court-entry) may be submitted for review and notice of whether it meets the requirements for a HiDRO. **This is an optional review** that does not replace the process to qualify a court-entered HiDRO Model Form. **To obtain a determination of whether a proposed HiDRO Model Form (absent court-entry) is qualified, it first needs to be entered by a court, and then submitted to the ERS for review as a court-entered HiDRO Model Form as referenced above (with a separate fee of \$300).**

SECTION C: PAYMENT SUBMISSION

Enclosed is my payment check, payable to **Employees' Retirement System** in the amount of \$300. I understand that this fee is non-refundable, and that my cancelled check will be my receipt of payment.

Requestor's Signature _____ Date _____