

1 457 Plan have been made, and the Alternate Payee has not been able to change the
2 investment options selected by the Participant.

3 WHEREAS, effective January 2002, the federal Economic Growth and Tax Relief
4 Reconciliation Act (“EGTRRA”) amended the provisions regarding divisions of 457
5 accounts upon dissolution of marriage. In May 2002, the California State Legislature
6 adopted legislation to conform State law to EGTRRA. Under the new law, 457 accounts
7 may be divided pursuant to a Qualified Domestic Relations Order (“QDRO”), giving the
8 Alternate Payee additional options with regard to disbursement, rollover and
9 management of his/her portion of the Participant’s 457 account. In addition, under the
10 new law, disbursements to the Alternate Payee are taxable to the Alternate Payee, not the
11 Participant.

12 WHEREAS, in order to allow the Alternate payee to have more options with
13 regard to investment, rollover and disbursement of the portion of the 457 account
14 awarded to him/her pursuant to the Prior DRO, and to simplify the coordination of tax
15 liability for disbursements to each party in accordance with the provisions of the new
16 laws, the parties agree to amend, and replace in its entirety, the Prior DRO for the
17 division of the 457 account. It is the intent of the parties that the interests awarded to the
18 Petitioner and Respondent in the Prior DRO shall remain the same, and that those
19 amounts, together with gains and losses thereon, be divided in accordance with the terms
20 of this Qualified Domestic Relations Order.

21 WHEREAS, this court has personal jurisdiction over Petitioner, Respondent and
22 Claimant, and jurisdiction over the subject matter of this stipulation and any order
23 entered pursuant hereto;

24 WHEREAS, Petitioner, Respondent, Claimant and the court intend that this Order
25 shall be a Qualified Domestic Relations Order (hereinafter referred to as a “QDRO”) as
26 that term is used in the Retirement Equity Act of 1984 (the “Act”);

27 WHEREAS Petitioner and Respondent were married to each other on
28 _____ and separated on _____;

1 WHEREAS, the parties hereto, including the Claimant, hereby agree and
2 stipulate that the court shall enter the following Order:

3 1. As used in this order, the following apply:

4 (a) "Participant" refers to Petitioner/Respondent (Name of Employee)
5 _____, whose last known address is
6 _____, and whose date of birth is
7 _____. Participant shall provide Participant's social security number to
8 Claimant upon request as necessary to administer this Order.

9 (b) "Alternate Payee" refers to Petitioner/Respondent (Name of Non-
10 Employee Spouse) _____,
11 whose last known address is _____,
12 and whose date of birth is _____. Alternate Payee shall provide
13 Alternate Payee's social security number to Claimant upon request as is necessary to
14 administer this Order.

15 (c) "Plan" refers to "The Ventura County Section 457 Plan," the
16 Trustee of which is Fidelity Management Trust Company.

17 (d) "Plan Administrator" refers to the Deferred Compensation
18 Committee for the County of Ventura, 800 South Victoria Avenue, Ventura,
19 California 93009.

20 2. The Alternate Payee is the former spouse of the Participant.

21 3. This Order is entered pursuant to the California Family Code section 2610.

22 4. **CHOOSE ONE OR MODIFY AS DESIRED:**

23 [This Order hereby creates and recognizes, as to the Plan described above, the existence
24 of the Alternate Payee's right to \$_____ in said Plan as of
25 _____ (date), together with gains or losses on that amount, from that date to
26 date of segregation of Alternate Payee's interest.]

27 OR

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1 [This Order hereby creates and recognizes, as to the Plan described above, the existence
2 of the Alternate Payee's right to _____ percent of said Plan as of _____
3 (date), together with gains and losses on that amount from that date to the date of
4 segregation of Alternate Payee's interest.]

5 OR

6 [This Order hereby creates and recognizes, as to the Plan described above, the existence
7 of the Alternate Payee's right to 50 percent of the contributions from date of marriage to
8 date of separation, together with gains and losses, calculated up to the date of segregation
9 of Alternate Payee's interest.]

10 5. From and after the date of this Order, with respect to the Alternate Payee's
11 interest in the Plan created and recognized in Paragraph 4 of this Order, said Alternate
12 Payee (or following Alternate Payee's death, Alternate Payee's designated beneficiary)
13 shall have the sole and exclusive right:

14 (a) To direct and manage the investment of Alternate Payee's interest in
15 the Plan, over which the Participant shall have no control;

16 (b) To withdraw Alternate Payee's interest in the Plan from the Plan on
17 or after the earliest retirement age, determined in accordance with Section 414(p)(4)(B)
18 of the Internal Revenue Code of 1987, as amended, as modified by the last paragraph of
19 this Paragraph 5;

20 (c) To direct the Plan Administrator of the Plan to transfer or roll over
21 the Alternate Payee's interest in said Plan to an Individual Retirement Account
22 established by Alternate Payee for Alternate Payee's benefit (provided, however, that
23 this right is personal to the Alternate Payee and may not be exercised by Alternate
24 Payee's beneficiary);

25 (d) To designate the beneficiary of Alternate Payee's interest in the Plan
26 in the event of Alternate Payee's death without regard to any beneficiary designation
27 made by the Participant with respect to Participant's interest in said Plan; and

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1 (e) If the Participant dies prior to the payment to the Alternate Payee of
2 all amounts due Alternate Payee pursuant to this QDRO, then all amounts held for the
3 Alternate Payee in the Plan shall be paid to Alternate Payee as a survivor death benefit,
4 notwithstanding any other survivor benefits that may be payable to any other beneficiary
5 or the Participant pursuant to Participant's written election, the terms of the Plan, or
6 federal law.

7 6. Pending determination by the Plan Administrator of the Plan as to whether
8 or not this Order is a QDRO, the Participant shall honor such written directions and
9 instructions as Participant may receive from the Alternate Payee as to the matters set
10 forth in subparagraphs 5(a) through 5(e) above with respect to the Alternate Payee's
11 interest in the Plan created and recognized by Paragraph 4 of this Order, and shall
12 execute and deliver to the Plan Administrator or other appropriate official of the Plan,
13 written instructions to implement the Alternate Payee's written instructions with respect
14 to such matters.

15 7. Nothing contained in this Order shall be construed to require the Plan or
16 Plan Administrator:

17 (a) To provide to the Alternate Payee any type or form of benefit or any
18 option not otherwise available to the Participant under the Plan;

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

21 (c) To pay any benefits to the Alternate Payee that are required to be
22 paid to another alternate payee under another order determined by the Plan Administrator
23 to be a QDRO before this Order is determined by the Plan Administrator to be a QDRO.

24 8. Copies of the Order shall be sent by ordinary mail by Alternate Payee, or
25 Alternate Payee's counsel, to counsel for the Plan Administrator. The Plan
26 Administrator shall, pursuant to 29 United States Code section 1056(d)(3)(G):

27 (a) Promptly notify the Participant, the Alternate Payee and any other
28 alternate payee of:

1 (i) The receipt of a copy of this Order by the Plan Administrator;
2 and

3 (ii) The Plan's procedure for determining the qualified status of
4 domestic relations orders;

5 (b) Within a reasonable period of time after receipt of a copy of this
6 Order, determine whether this Order is a QDRO and notify the Court, the Participant, the
7 Alternate Payee and any other alternate payee of such determination; and

8 (c) Pending the determination of whether or not this Order is a QDRO,
9 segregate in a separate account in the Plan the amounts which would have been payable
10 to the Alternate Payee during such period if this Order had been determined to be a
11 QDRO pursuant to 29 United States Code section 1056(d)(3)(H)(i).

12 9. The one-time determination fee charged by the Plan Administrator for
13 processing this Order, in the amount of \$300, will be allocated 50 percent from the
14 Participant's account and 50 percent from the Alternate Payee's account. The fee will be
15 taken from the investment options in the applicable account(s) according to the plan level
16 fee method in effect as of the date the fee is deducted.

17 10. This Order is intended to be a QDRO made pursuant to the Act, and its
18 provisions shall be administered and interpreted in conformity with the Act. If the Act is
19 amended or the law regarding QDROs is otherwise changed or modified, then the parties
20 hereto shall immediately take such steps as are necessary to amend this QDRO to comply
21 with any such changes, amendments and/or modifications, or, if permissible under any
22 such change, amendment, or modification to the Act or laws regarding QDROs, the Plan
23 Administrator must elect to treat this QDRO as a qualifying order.

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11. The court shall retain jurisdiction over this matter to amend this Order in order to establish and/or maintain its qualification as a QDRO under the Act.

It is so stipulated:

Dated: _____

[Name]
Petitioner

Dated: _____

[Name]
Respondent

Approved as to form and content:

LEROY SMITH,
County Counsel, County of Ventura

Dated: _____

JOHN E POLICH
Assistant County Counsel

Attorney for the Ventura County Section 457
Plan

ORDER

The parties having stipulated thereto and good cause appearing therefor,
IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT