

1 {Name}
2 {Address}
3 {City, State Zip Code}
4 {Telephone Number}

PLAINTIFF/DEFENDANT IN PROPER PERSON

DISTRICT COURT, FAMILY DIVISION

_____, NEVADA

Plaintiff,

vs.

Defendant.

CASE NO.:

DEPT. NO.:

**DOMESTIC RELATIONS ORDER
DIVIDING PENSION BENEFITS**

PARTIES TO THE ORDER

1. The Operating Engineers Pension Trust ("Trust") is administered by the Board of Trustees of the Trust ("Trustees") whose address is 100 Corson Street, Suite 100, Pasadena, California 91103. The Trust is an "employee pension benefit plan" as that term is defined in 29 U.S.C. § 1002(2)(A).

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1 2. _____ ("Participant") is a participant in the Trust
2 and has the following date of birth and current address:

3 DATE OF BIRTH: _____

4 CURRENT ADDRESS: _____

5 _____

6 3. _____ ("Alternate Payee Spouse") has a
7 community property interest in the pension benefits of the Participant in the Trust
8 arising from the marriage of the Alternate Payee Spouse to the Participant and has the
9 following date of birth and current address:

10 DATE OF BIRTH: _____

11 CURRENT ADDRESS: _____

12 _____

13 **NOTE:** The Participant, the Alternate Payee Spouse and each Alternate Payee under this
14 order shall file or cause to be filed with the Trust an information form, in the format of
15 Attachment A to this order, setting forth the social security numbers of the Participant
16 and all Alternate Payees named in this order. The Trust shall have no obligation to
17 comply with this order until such form or forms are presented to it containing the social
18 security numbers of the Participant and all Alternate Payees named in this order. No such
19 form containing the social security numbers of the parties to this proceeding shall be filed
20 with the court.

21 **DEFINITION OF COMMUNITY INTEREST**

22 **OF ALTERNATE PAYEE SPOUSE**

23 4. The community property interest of the Alternate Payee Spouse
24 ("Community Interest") shall mean the right of the Alternate Payee Spouse to receive
25 credits in and benefits from the Trust, as more specifically set forth herein, based upon
26 one-half of any Prior Service Credits and Pension Credits accumulated by the
27 Participant during the period of _____ (month and year of
28 marriage) through _____ (month and year of divorce.)

1 **ASSIGNMENT OF BENEFITS TO ALTERNATE PAYEE SPOUSE**

2 5. The Trust shall divide the Participant's Prior Service Credits and Pension
3 Credits and allocate part of such credits to the Alternate Payee Spouse and assign to
4 the Alternate Payee Spouse the right to receive pension benefits based upon the
5 Community Interest. This assignment shall include all of the Community Interest
6 withheld by the Trust from the Participant's pension, during the period on which the
7 claim of the Alternate Payee Spouse was reviewed by the Trust. The Participant shall
8 have no right to receive that portion of the pension benefits assigned by this order to
9 the Alternate Payee Spouse except in the event that the Alternate Payee Spouse and
10 each Alternate Payee named in this order have died or upon further order of this court.

11 6. The Alternate Payee Spouse shall have no right to receive pension
12 benefits from the Trust except as specifically required by this order. All payment of
13 pension benefits to the Alternate Payee Spouse shall cease upon the death of the
14 Participant except for death benefits or benefits payable to a surviving spouse required
15 under Paragraph 11 of this order.

16 **COMMENCEMENT OF BENEFITS**

17 7. Payment of pension benefits to the Alternate Payee Spouse shall begin
18 on the first month after approval by the Trustees of this order as a Qualified Domestic
19 Relations Order, after this order has been entered by the Court, and after the Alternate
20 Payee Spouse has made a written application for benefits from the Trust pursuant to
21 this order, when the earliest of the following events occurs: (a) the Participant has
22 retired and begun receiving pension benefits from the Trust; (b) the Participant is
23 eligible for a Regular Pension, an Early Pension, a Service Pension, or a Pro-Rata
24 Pension from the Trust (whether or not the Participant has retired and made
25 application for, or begun receiving, pension benefits from the Trust); (c) the
26 Participant dies before retiring or after retiring, but before pension payments to the
27 Participant commence, if the Participant's Service Credits are vested in accord with
28 Article III, Section 3, of the Operating Engineers Pension Plan ("Plan").

1 **FORM OF BENEFIT PAYMENTS**

2 8. If the Participant has begun receiving pension benefits when this order is
3 approved by the Trustees, the Alternate Payee Spouse shall receive pension benefits in
4 the form that such benefits are being paid to the Participant.

5 9. If the Participant has not yet begun receiving pension benefits when this
6 order is approved by the Trustees, then the form of benefits payable to the Alternate
7 Payee Spouse shall be selected as follows:

8 a. If the Alternate Payee Spouse has been married for not less than
9 one year to the Participant, when her application for benefits is made, benefits shall be
10 paid to the Alternate Payee Spouse in the form of the Qualified Joint and Survivor
11 Annuity unless that form is rejected in the manner prescribed by Article VII, Section 2,
12 of the Plan. The Alternate Payee Spouse shall be deemed the spouse of the Participant
13 to the extent of the Community Interest for purposes of the rejection specified in
14 Article VII, Section 2, of the Plan.

15 b. If the Alternate Payee Spouse has not been married to the
16 Participant for at least one year, when her application for benefits is made, then
17 pension benefits shall be paid to the Alternate Payee Spouse in the form of a single life
18 annuity using the Participant's life as the measuring life.

19 c. If the Alternate Payee Spouse begins receiving pension benefits
20 pursuant to this order before the Participant attains age 62, the Alternate Payee
21 Spouse's monthly amount shall not exceed the amount actuarially equivalent at the
22 Participant's current age to the amount the Participant would have received at age 62.
23 For this purpose, the actuarial equivalent reduction shall be one half of one percent
24 (.5%) for each month by which the Participant's age precedes age 62. This reduction
25 shall be applied prior to any reduction for the Qualified Joint and Survivor Annuity.

26 10. In the event that the Qualified Joint and Survivor Annuity, or the
27 survivor benefit payable under such pension, is paid to the Alternate Payee Spouse
28 pursuant to the rules of the Plan and this order, the amount of benefits payable shall be

1 calculated using the age of the Participant and the age of the Alternate Payee Spouse
2 as the spouse for the computation of benefits under Article VII, Section 2, of the Plan.

3 **PAYMENTS AFTER PARTICIPANT'S DEATH**

4 11. The Alternate Payee Spouse shall be deemed to be the surviving spouse
5 of the Participant, to the extent of the Community Interest, and any benefit payable to
6 a surviving spouse under Article VII or Article IX of the Plan following the
7 Participant's death, shall be paid, to the extent of the Community Interest, to the
8 Alternate Payee Spouse in accord with such provisions of the Plan and this order.

9 **PAYMENT AFTER DEATH OF ALTERNATE PAYEE SPOUSE**

10 12. In the event the Alternate Payee Spouse dies before the Participant, any
11 further pension benefits which would have been payable to the Alternate Payee Spouse
12 from the Participant's pension, had the Alternate Payee Spouse lived until the
13 Participant's death, shall be paid to the person or persons set forth below in the
14 proportion stated:

15	NAME:
16	CURRENT ADDRESS:
17	
18	DATE OF BIRTH:
19	Relationship to Participant:
20	Percentage of Benefits:
21	

22	NAME:
23	CURRENT ADDRESS:
24	
25	DATE OF BIRTH:
26	Relationship to Participant:
27	Percentage of Benefits:
28	

1 Each of the persons named above is an Alternate Payee under this Order and
2 qualifies as such pursuant to Section 1056 (d)(3)(K) of Title 29 of the United States
3 Code as the spouse, former spouse, child or other dependent of the Participant.

4 13. If an Alternate Payee predeceases the Alternate Payee Spouse, his or her
5 share shall be divided equally among the surviving Alternate Payees. If the Alternate
6 Payee Spouse and each Alternate Payee named in this order predecease the Participant,
7 pension benefits which would otherwise be payable to the Alternate Payee Spouse or
8 any Alternate Payee shall be paid to the Participant.

9 14. If the Alternate Payee Spouse is receiving, or entitled to receive, death
10 benefits pursuant to this order and Article VII of the Plan, the balance of any such
11 benefits, to the extent of the Community Interest, which remain payable after the death
12 of the Alternate Payee Spouse shall be paid to the Alternate Payee or Alternate Payees
13 named in paragraph 12 above for the remainder of such payments. If an Alternate
14 Payee dies before receiving his or her entire share of the remaining payments, then his
15 or her share shall be divided equally among the surviving Alternate Payees. If no
16 Alternate Payee has been named in this order, or if no Alternate Payee survives until
17 the balance of such benefits has been fully paid, then any remaining death benefits
18 payable pursuant to this order and Article VII of the Plan, following the death of the
19 Alternate Payee Spouse shall be paid in accord with the rules of the Plan without
20 regard to this order.

21 **GENERAL PROVISIONS**

22 15. This order is intended to be a qualified domestic relations order and shall
23 affect only the Community Interest of the Alternate Payee Spouse. All of the
24 remaining interest in the Participant's pension benefits or death benefits shall be paid
25 in accord with the rules of the Plan without regard to this order.

26 16. Except as expressly provided in this order, the interest in pension
27 benefits or death benefits of the Participant, the Alternate Payee Spouse, and each
28 Alternate Payee named in this order shall not be assigned or alienated, and all rights

1 with respect to pension benefits or death benefits shall exist and shall terminate in
2 accordance with the rules of the Plan.

3 17. Nothing herein shall be construed to require the Trust to provide the
4 following:

5 a. any type or form of benefit, or any option, not otherwise provided
6 under the Plan;

7 b. increased benefits (determined on the basis of actuarial value),
8 over that which would otherwise be payable under the Plan in the absence of this
9 order; or

10 c. benefits to an Alternate Payee Spouse or an Alternate Payee
11 which are required to be paid to another alternate payee under another order previously
12 determined under this Plan to be a qualified domestic relations order as that term is
13 defined in Section 1056(d)(3)(B) of Title 29 of the United States Code.

14 18. In the event that the Trust is terminated in whole or in part pursuant to its
15 Plan or pursuant to proceedings instituted by the Pension Benefit Guaranty
16 Corporation or other federal agency, the interests of the Participant, the Alternate
17 Payee Spouse and each Alternate Payee shall be disposed of in such manner as
18 required by the Plan and by federal law.

19 19. Notwithstanding any other provision of this order, in the event that the
20 Participant, the Alternate Payee Spouse, any Alternate Payee or another person
21 claiming to derive rights to benefits from any such person, shall make a claim which
22 the Trustees determine to be inconsistent with the terms of this order or the terms of
23 the Plan, the Trustees may forthwith cease payments to all or any persons otherwise
24 entitled thereto under this order pending resolution of said claim and may take such
25 further action as is permitted under the rules of the Plan and applicable federal law,
26 including Section 1056(d) of Title 29 of the United States Code.

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1 20. This court reserves jurisdiction to make all other necessary and proper
2 orders required to carry out the terms of this order.

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Approved as to form and content:

Date: _____ Participant

Date: _____ Attorney for Participant

Date: _____ Alternate Payee Spouse

Date: _____ Attorney for Alternate Payee Spouse

Date _____ DISTRICT COURT JUDGE

OPERATING ENGINEERS PENSION TRUST
PROCEDURES FOR APPROVAL OF
QUALIFIED DOMESTIC RELATIONS ORDERS

The following Procedures are adopted by the Board of Trustees of the Operating Engineers Pension Trust for the approval of qualified domestic relations orders and notification of Participants and alternate payees of their rights with respect to such orders.

1. **Notice of Receipt of Order** - In each case in which a domestic relations order pertaining to a Participant in the Operating Engineers Pension Trust is received by the Trust, the Pension Department within the Fund Office of the Trust shall promptly notify the Participant and each alternate payee named in the order that the Trust has received the order. The Participant and each alternate payee shall be provided a copy of these Procedures. The Pension Department shall forward the order to legal counsel for review of the qualified status of the order.

2. **Determination of Qualified Status** - Within a reasonable period after the Trust has received a domestic relations order concerning a Participant in the Trust, the Fund Manager, or his designee, shall determine whether the order is a qualified domestic relations order within the meaning of federal law [the Employee Retirement Income Security Act (ERISA) as amended by the Retirement Equity Act, specifically 29 U.S.C. Section 1056(d)]. The Participant and each alternate payee named in the order shall be notified of such determination. If the order is determined to be a qualified domestic relations order within the Fund Office of the Trust shall make such notification. If the order is determined not to be to a qualified domestic relations order, legal counsel shall make such notification, advising the parties of the specific reasons why the order is not qualified.

3. **Designation of Representative** - Each alternate payee named in a domestic relations order received by the Trust shall be entitled to designate a representative for receipt of a copy of any notice that is sent to the alternate payee concerning the domestic relations order.

4. **Appeal** - If such person's claim to benefits payable from the Trust has been denied, notice shall be given to each Participant and alternate payee of that person's right to petition the Board of Trustees for reconsideration of the determination regarding the qualified status of the order under Article XIV, Section 5, of the Operating Engineers Pension Plan. Any petition for reconsideration filed pursuant to such notice shall be processed as specified in Article XIV, Section 5, of the Plan.

5. **Separate Accounting of Funds** - During the period in which the issue of qualification of a domestic relations order is being determined as set forth above, the Trust shall separately account for the amounts, if any, which would have been payable to the alternate payee under such order during such period if the order had been determined to be a qualified domestic relations order when first received by the Trust.

6. **Payment to Alternate Payee** - If within the eighteen (18) month period beginning on the date on which the first payment would be required under a domestic relations order, the domestic relations order is determined to be a qualified domestic relations order, the Trust shall pay all amounts which would have been payable to the alternate payee during such period, including any interest accrued on such amounts, to the alternate payee as if the order had been determined to be a qualified domestic relations order when first received by the Trust.

7. **Effect of Denial of Qualified Status** - If within this eighteen month period it is determined either that the order is not a qualified domestic relations order, or if the issue as to qualification is not resolved, then the Trust shall pay all amounts which have been separately

accounted for, including any interest accrued on such amounts, to the person or persons who would have been entitled to such amounts if there had been no order issued.

8. **Prospective Application** - In cases in which an order is determined to be a qualified domestic relations order after the close of this eighteen month period, such order shall be applied prospectively only.

9. **Manner of Giving Notice** - All notices required by these Procedures shall be in writing and shall be sent by first-class mail to the address stated in the domestic relations order for the person to be notified. If no address is provided in the domestic relations order, the notice shall be sent by first-class mail to the last known address of the person to be notified. If the person to be notified is represented by a lawyer, all notices required by these Procedures shall be sent to the lawyer for such person unless contrary instructions in writing are received by the Trust.

10. **Interest Rate** - When a payment of interest on pension benefits payable under a qualified domestic relations order is required by applicable federal law as specified in these Procedures, the rate of such interest shall be the plan valuation rate adopted by the Board of Trustees of the Trust for purposes of the actuarial valuation of Plan assets.

11. **Definitions** - The terms “qualified domestic relations order,” “domestic relations order,” and “alternate payee” shall have the same meaning in these Procedures as that given to such terms in 29 U.S.C. Section 1056(d).