

**SAMPLE QDRO FOR THE
AUTOMOTIVE MACHINISTS PENSION PLAN**

DIVORCE BEFORE RETIREMENT

The following sample QDRO has been developed for the Automotive Machinists 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 a monthly pension benefit (i.e. 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.

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

[SAMPLE TRANSMITTAL LETTER]

[Date]

Board of Trustees
Automotive Machinists Pension Plan
P.O. Box 34203
Seattle, WA 98124

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 Automotive Machinists 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]
Social Security Number:	[Alternate Payee’s SSN]
Date of Birth:	[Alternate Payee’s 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]

1 [Sample Separate Interest QDRO – Pre-Retirement Divorce]

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6 IN THE SUPERIOR COURT OF THE STATE OF [STATE]
7 IN AND FOR THE COUNTY OF [COUNTY]

8 IN RE THE MARRIAGE OF:

9 *[PETITIONER'S NAME],*

10 Petitioner,

11 v.

12 *[RESPONDENT'S NAME],*

13 Respondent.

NO. _____

QUALIFIED DOMESTIC RELATIONS
ORDER – Automotive Machinists
Pension Plan

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

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

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

23 IT IS HEREBY ORDERED by the Court as follows:

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

1.1 “Participant”: *[Participant's Name]*
Address: *[Address]*
[City, State ZIP]

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

2 1.2 "Alternate Payee": *[Alternate Payee's Name]*
3 Relationship to *[Relationship to Participant*
Participant: *(e.g. former spouse)]*
4 Address: *[Address]*
5 *[City, State ZIP]*

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

7 1.3 "Plan": Automotive Machinists Pension Plan
8 1.4 "Plan Administrator": Board of Trustees
Automotive Machinists Pension Plan
9 Address: P.O. Box 34203
Seattle, WA 98124

10 **2. Division of Marital Property.** This Order is entered pursuant to *[describe*
11 *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
12 under the Plan.

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

14 3.1 Participant is vested;

15 3.2 Participant is [age] years of age; and

16 3.3 Participant at the time of entry of this order is not receiving retirement
benefits under the Plan.

17 **4. Amounts Awarded to Alternate Payee.**

18 **4.1 Retirement Benefits Assigned to Alternate Payee**

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

21 (a) Division of Amounts Earned During the Marriage

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

1 (b) Separate Life Annuity for Alternate Payee

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

6 (c) Alternate Payee's Benefit Commencement Date

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

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

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

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

22 (e) Post-Retirement Benefit Improvements

23 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).

4.2 Pre-Retirement Death Benefit Provisions

(a) Pre-Retirement Death of Participant

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

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

4 (b) Pre-Retirement Death of Alternate Payee

5 If Alternate Payee dies prior to commencement of her benefits,
6 her benefits shall revert to Participant for payment to Participant pursuant to the terms of the
7 Plan. Accordingly, if the Participant dies prior to commencement of Alternate Payee's
8 benefits and Alternate Payee has not survived Participant, pre-retirement death benefits
9 shall be payable to the Participant's designated beneficiary.

10 **4.3 Supplemental Disability Benefits Awarded Solely to Participant**

11 The Plan provides a supplemental disability benefit. In the event
12 Participant becomes disabled and is entitled to begin receiving disability benefits from the
13 Plan, such benefits are the separate property of Participant and do not affect the benefits
14 awarded to or the commencement date of Alternate Payee's benefits.

15 **5. Limitations on Order.** Nothing contained in this Order shall be construed to
16 require 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
20 value) not 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;
23 or

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

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

 6.1 Immediately notify the Participant and the Alternate Payee of:

 (a) The receipt of this Order; and

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

1 6.2 Within a reasonable period of time, determine if this Order is a
2 QDRO, and notify the Participant and Alternate Payee of such determination.

3 6.3 Pending determination of a proposed order's status as a QDRO,
4 separately account within the Plan for the amount ("segregated amounts") which would
5 have been payable to the Alternate Payee (if this order is established to be a QDRO) during
6 the determination period, as defined in Internal Revenue Code Section 414(p)(7). No
7 segregation is necessary if benefits are not payable during the determination period.

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

11 DONE IN OPEN COURT this _____ day of *[month]*, *[year]*.

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JUDGE/COURT COMMISSIONER

Presented by:

[NAME OF ATTORNEY'S OFFICE]

By _____

[NAME OF ATTORNEY]

Bar No. *[00000]*

Attorney for Respondent

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

[NAME OF ATTORNEY'S OFFICE]

By _____

[NAME OF ATTORNEY]

Bar No. *[0000]*

Attorney for Petitioner