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Dear Attorney/Client,

Thank you for retaining our office to prepare your Qualified Domestic Relations Order(s) "QDRO". We look forward to working with you and strive to make the QDRO process as smooth and efficient as possible. We know many of our clients have had a long road before getting to us and we want to get this final, important step wrapped up for you as expeditiously and efficiently as possible! Our **QDRO Information form** (following this engagement letter) asks for much of the information we will need to prepare your QDRO or retirement division order. It is designed to be a "catch-all" for every QDRO request we receive and completing all of the requested information may not be necessary for your particular situation, but it will minimize our need to obtain follow-up information. Here are some "tips" for completing the QDRO Information Form:

Please provide the ***current addresses for the parties***. If you will be moving or changing addresses, please also provide the future address, so that the final QDRO may contain your appropriate address, as the retirement plan(s) will be sending important information to everyone during the QDRO process and thereafter.

If you are represented by an attorney, please list their information where asked, so that we may include them on the QDRO document and correspondence related to the division of the retirement/investment plan(s). If you ***are not*** represented by an attorney, you may leave that section blank. If your attorney has withdrawn from your case, please indicate this and provide/include their Notice or Letter of Withdrawal.

Please complete the Information on Retirement Plan(s) section to the best of your abilities. "Fidelity", "Charles Schwab", "Vanguard", etc. are Plan

Custodians and are rarely the actual Plan Administrator. If you are unsure, please list the employer which the retirement plan was accumulated through, with a contact phone number, so that we can then research the specific information on the Plan Administrator. If this information is incomplete, please be aware that extra time on our end may be needed to locate and communicate with the appropriate Plan Administrator who will review and process the QDRO, and may delay the completion of the QDRO beyond our standard turnaround times.

For 401(k) Plan QDROs and other defined contribution plan QDROs, a plan statement of account helps identify the Plan, and critical information such as Plan Loans, as well as whether active contributions are continuing, which is why we request a plan statement of account (which hopefully you can produce if it is your account or it was obtained through discovery).

For Pension Plan QDROs, statements usually are not generated on a regular basis (they are often only generated annually), and may need to be requested from your H.R. representative or benefits center (or again, was hopefully obtained through discovery)

For Military Pension Division Orders, a PSMC (personal statement of military compensation) is generally the most helpful document in summarizing the military member’s rank, pay grade and other required information.

For Federal Pension Division Orders, also known as COAPs (Court Order Acceptable for Processing), a pay statement and annual pension statement is generally the best document to provide.

**Name Change:** Please provide us with the full and proper name that should appear in the QDRO. If your name has been changed or restored in your Decree/Divorce Judgment, this should be provided. Please provide us both, your married name, as well as your changed/future name.

Questions? We are here to help! Please feel free to send an email. You are welcome to call, but we can expedite communications by sending us an email with your questions: team@kansascityfamilylaw.com.

**The QDRO Process**

The process will vary tremendously depending upon the type of plan, the requirements and features of each specific plan and the unique situation of the parties. After we obtain information about the plan, the QDRO will be drafted. Even once the judge signs your QDRO, the plan administrator has the final say over whether the QDRO meets the technical requirements of the plan and the law. For this reason, we usually submit a proposed QDRO to the plan administrator for preapproval before we file it with the court.

Once the QDRO has been preapproved by the plan administrator, it must then be signed by both parties or their attorneys before it can be filed with the court. In many courts, if one party will not sign off on the QDRO, a motion to enter and a court appearance will be required. If this occurs, additional fees will be required.

The QDRO can be drafted, reviewed by the parties and their attorneys and preapproved by the Plan Administrator during the divorce process. After the judge has signed the QDRO, a certified copy of the QDRO must be obtained from the court and sent back to the plan administrator for final approval. As long as the QDRO was preapproved by the plan administrator, they generally give final approval without further delays. However, a few plan administrators will not review a proposed QDRO before it is filed with the court/signed by the court and therefore, we won’t know until it has been signed by the judge and submitted to the plan administrator if it will be considered acceptable.

**Frequently Asked Questions:**

“How long does this process take?”

Generally the time period is approximately 90 to 12 days, but this is a very general estimate based on experience in processing hundreds of QDROs. As explained above, there is a number of steps from the beginning of the QDRO process to conclusion. The exact time frame in your case can vary greatly depending on the following factors:

1. We need to have complete information from you, including the full address, social security number and date of birth of the parties. We also must have the full formal names of the plans being divided. If there is a delay in receiving this information or documents, this will delay the process.
2. Payment of our fee being timely made. Payment must be made before we can begin this process.
3. How long it takes the plan administrator to review and preapprove the QDRO. Some plan administrators will respond the same day when a draft document is sent to them, and some take several months to review a QDRO. We have no control over this process.
4. How long it takes to obtain signatures on the QDRO. Both parties or their attorneys must sign the QDRO. If one party does not sign the QDRO, a court hearing will likely need to be scheduled for the judge to sign/enter the QDRO.
5. How long it takes the judge to sign the QDRO. Some judges are very prompt in signing QDROs, and a few take much longer. Again, we have no control over this timeline.
6. How long it takes the plan administrator to give final approval to the court certified QDRO. Even though the plan administrator may have given preapproval to the QDRO, many of them still take time to approve/process the QDRO.
7. How long it takes for the plan administrator to process a payment distribution request. It takes time for the plan administrator to review your request, place a request for payment to their record keeper, and issue payment.

How do I know what’s going on with my QDRO?

We will do our best to update you and keep you informed via e-mail at each stage of the process. At each stage of the process, we mark a date on the calendar to follow-up if more than the average amount of time has passed. While we understand people are struggling financially after a divorce, please do not ask us to call the court or the plan administrator earlier than the follow-up dates, or ask to expedite your case. They process the QDRO according to their procedure, and in some cases, inquiries actually slow down the process.

Likewise, frequently contacting our office to check on how the time line or processing can delay the process. We have many QDROs in process at any one time. If even half of our clients are calling and/or emailing every few days or even weekly, that would take a tremendous amount of time of time to respond to each of these inquires, which takes away from our time to actively work on cases. However, if you have not received anything in thirty days, feel free to send a brief email and we will let you know the status of what is happening.

We generally do not communicate with financial advisors for the parties. You will be copied via email as we proceed with your case, so you should be able to update your financial advisor directly.

“How Much Money Will I Receive?”

Many times we never find out how much money was assigned based on the QDRO. The plan administrator usually does not provide this information during the QDRO process or even in the final approval letter. On reason is that the final amount often is not determined until the funds are actually transferred. This is the case even when the spouse may have been assigned a fixed dollar amount. Most of the time, the assigned amount is subject to gains or losses, based on fluctuations in the stock market. Thus the assigned amount will increase or decrease on a daily basis until the date the funds are transferred.

For defined contribution plans (such as 401(k), 403(b), etc., the parties should be aware that under state law, the assigned amount will be subject to gains and losses from the date of judgment (or other agreed upon valuation date), until the funds are transferred. If this is not the parties intent, they will either need to let me know that they both agree it is not subject to gains and losses, or if they don’t agree, they need to get clarification from the court.

You should be aware that the plan administrator for many defined contributions plans (such as 401(k), 403(b), 457, Deferred compensation), assess a fee for processing a QDRO. Defined benefit plans (pension plans) cannot charge a fee for processing a QDRO. This fee is in addition to the fee you paid our office to prepare and file the QDRO.

The plan administrator’s fee is not an out of pocket fee; it is withdrawn directly from the plan account. Some plans dictate whether the participant, the former spouse, or both bear this cost. Other plans leave it up to the court or the parties to determine who will bear the cost. Each plan sets their own processing fee, but in general they range from $300 to $2,000, with the vast majority being toward the lower end.

“How soon can I get my money?”

This depends on several factors, including the type of plan being divided, the rules of the plan and how long it takes the plan’s record keeper to process the distribution request.

For a typical pension plan, there are monthly payments which cannot begin until the earliest retirement age of the participant as defined under the plan. For defined contribution plans such as a 401(k), profit sharing plan, or deferred compensation plan, the money is almost always available as soon as the QDRO is given final approval by the plan administrator. However, occasionally a plan has rules which prevent distribution until a later date, such as the earliest retirement age of the participant or a certain number of months after ending participation in the plan. These are plan rules which cannot be changed by the court order.

“How will I receive my money?”

The plan administrator will not automatically send payment the QDRO has been approved. The receiving party must request a distribution. Each plan administrator will have their own procedure for requesting a distribution. Some will have a form for you to complete, some will provide on-line access to request a distribution, and other simply say “call us.” Regardless of their procedure, the receiving spouse must let the plan administrator know how they want to receive their benefits. For defined contribution plans (such as 401(k)), you will let them know whether you want your funds in cash, rolled over to another retirement plan, or some of each. For a defined benefit plan (i.e. pension plan), you will choose from the various monthly payment options under the plan (or in rare cases, lump sum payments).

Conclusion:

As you can see, QDROs are very complicated, and there are many other factors which can influence this process, but I hope this provides you with some basic information to help you understand the QDRO process. If you have any questions, feel free to email us or give us a call. We look forward to working with you to wrap up this challenging part of your life.

**Prior to making your payment, please provide the intake information form, your judgment or decree and the plan documents so we can confirm the cost**.

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