

**(Note this order is appropriate when the Petitioner is the non-military member. If the Petitioner is the military member changes must be made to the Order to reflect this.)**

CIRCUIT COURT IN AND FOR  
DUVAL COUNTY, FLORIDA

In re the Marriage of:	)	
	)	Case No.
	)	Division:
Petitioner,	)	
and	)	
	)	
Respondent.	)	
_____	)	

ORDER FOR THE DIVISION OF MILITARY RETIRED PAY

I. FACTUAL RECITALS

A. Identifying data for the Petitioner in this case is as follows:

- Full name:
- Social Security Number:
- Date of Birth:
- Last Known Address:

B. The identifying data for the Military Member/Respondent in this case is as follows:

- Full name:
- Social Security Number:
- Date of Birth:
- Branch of Service:
- Last Known Address:

C. The parties were married on \_\_\_\_\_ and they continuously remained married until \_\_\_\_\_, on which date this Court has entered a Final Judgment of Dissolution of Marriage terminating the marriage between the parties. The Respondent commenced military service on \_\_\_\_\_ **[and retired on \_\_\_\_\_]**, therefore the period of marriage coincides with at least 10 years of Respondent's service in the

Armed Forces of the United States that is creditable for retirement purposes. The Petitioner qualifies for “direct payment” from the appropriate military finance center for her monthly share of military retired pay attributable to Respondent’s military service under Title 10, United States Code section 1408 (d) (2).

D. The parties were divorced by a Court of competent jurisdiction with personal jurisdiction over both the Petitioner and the Respondent in accordance with the laws of the State of Florida and Title 10, United States Code section 1408 (c) (4) in that the [ **(1) Respondent resides in the territorial jurisdiction of the Court, other than because of (his/her) military assignment, (2) Respondent’s domicile is in the territorial jurisdiction of the Court, or (3) Respondent has consented to this Court’s jurisdiction over (him/her)**]. The Respondent's rights under the Soldiers' and Sailors' Civil Relief Act of 1940, Title 50, USCA, have been satisfied.

E. The Final Judgment of Dissolution of Marriage entered by this Court divided the Respondent's military retired pay. This Order is issued pursuant to said Final Judgment of Dissolution of Marriage and constitutes a part of said final decree, being wholly incorporated therein by reference. The purpose of this Order is to further define the Petitioner's property interest in the military retired pay pursuant to the Final Judgment of Dissolution of Marriage and to secure her right to receive payment of her share pursuant to Title 10, United States Code, section 1408.

## II. Order for Division of Military Retired Pay

IT IS HEREBY ORDERED AS FOLLOWS:

A. The Petitioner is awarded [ \_\_\_% ( \_\_\_ percent) ] [ \$ \_\_\_\_\_.00 per month ] [ **one half of the military retired pay multiplied by the fraction \_\_\_\_/\_\_\_\_ (the**

**numerator of which is the number of months the parties were married that the Respondent was employed in creditable military service; the denominator of which is the total number of months of creditable military service of the Respondent)] of the military retired pay monthly attributable to the Respondent's military service as the term "military retired pay" is defined pursuant to Title 10, U.S.C., 1408. The Petitioner shall receive the same percentage of all cost-of-living adjustments that Respondent receives. (NOTE: Delete the last sentence if the Petitioner is awarded a fixed dollar amount.)**

B. Petitioner shall receive her portion of the Respondent's military retired pay, awarded by this Order, directly from the appropriate military finance center, payable from Respondent's disposable retired pay to the maximum extent permitted by law. Each party shall pay the Internal Revenue Service taxes on the share coming to them and are to use their best efforts to achieve this result.

C. Respondent shall provide Petitioner with a copy of any amended retired pay statement that Respondent receives from a military finance center, said copy to be mailed to the Petitioner not later than five days after Respondent receives said amended statement.

D. Respondent shall notify Petitioner by the most expeditious means available of receipt of orders and reporting date for Respondent's recall to active duty in the Armed Forces of the United States if such a recall occurs.

E. The rights created and the obligations imposed by this Order shall terminate upon the death of either party. The monthly payments herein shall be paid to the Petitioner regardless of her marital status and shall not end at her remarriage.

F. Petitioner shall make timely application for direct payment of her share of Respondent's military retired pay, in accordance with Title 10, U.S.C., as amended, section 1408 and Title 32, Code of Federal Regulations, Part 63.

G. If the Respondent retires from military service and then subsequently also qualifies for a civilian retirement plan that allows him to combine his military and civilian service in order to receive a larger civilian pension, any such election by the Respondent shall not effect the Petitioner's right to a monthly sum equal her portion of the military retired pay as provided for herein.

H. The Respondent agrees that if he subsequently waives any portion of his net disposable military retired pay in order to receive disability pay, or takes any action which would defeat, reduce or limit the Petitioner's collection of **(his/her)** portion of the military retired pay due to **(him/her)** under this Order, the Respondent will indemnify and pay directly to the Petitioner the difference between the amount awarded pursuant to this Order and any reduced amount that the Petitioner subsequently receives as a result of the Respondent's election to receive disability pay.

I. In any month the finance center does not pay Petitioner's share directly to **(him/her)**, or if the monthly payment to the Petitioner does not equal the full award the Petitioner is entitled to for the month in question under the terms of this Order, or if the Respondent has taken action to reduce, eliminate, or decrease the Petitioner's share in breach of this Order, then the Respondent shall pay to the Petitioner, the difference between the amount of the direct payment from the finance center, if any, and the amount that the Petitioner is entitled to under this Order.

**Add the following paragraph if the Respondent is not going to retire when he or she first becomes eligible:**

**If the Respondent does not retire from active duty when (he/she) first becomes eligible, (he/she) shall nonetheless begin paying to the Petitioner on a monthly basis, not later than the last day of each month, an amount equal to \_\_\_\_\_ per cent (\_\_\_%) of the monthly military retired pay, as that term is defines herein, which (he/she) would have been entitled to receive if (he/she) was retired as soon as eligible beginning with the date that Respondent was eligible to retire. This monthly amount shall be increased each time the Respondent receives any cost-of-living adjustment to (his/her) active duty pay, reserve pay or retired pay. The increase shall be the same percentage increase in Respondent’s pay. If and when Respondent does retire, the Petitioner shall be entitled to receive, and may at (his/her) option begin receiving, all of (his/her) monthly share of retired pay by direct payment from the applicable military finance center as provided for in this Order.**

J. Petitioner is the irrevocable beneficiary of the Survivor Benefit Plan ("SBP") through the Respondent's military retirement. Respondent shall execute the required paperwork to make or extend the election of the Petitioner as beneficiary and shall do nothing to reduce or eliminate the benefit to Petitioner. Respondent shall elect the **["former spouse only"] ["former spouse and child"]** option and shall **select [the full amount of (his/her) retired pay] [\$ \_\_\_\_\_.00]** as the base amount. Such election shall be made **[at the time of the Respondent’s retirement] [within sixty (60) days of the date of the filing of this Order]**, and a copy of said election provided to Petitioner.

If Respondent fails to make said election, an amount equal to the present value of the SBP coverage for the Petitioner, shall, at the death of the Respondent, become an obligation of his estate. In addition, the Petitioner shall be entitled to such remedies for breach as are available to her in a court of law.

K. Petitioner shall have the right to waive her interest in the SBP specified in the preceding paragraph, and shall be permitted to obtain insurance coverage on Respondent's life as she deems appropriate to secure the Petitioner's insurable interest. In the event Petitioner makes such an election, the Respondent shall sign documents or perform other acts as necessary to allow the Petitioner to insure coverage on his life, including complying with a request for a physical examination, if necessary. **(Note: This language should be added to insure the spouse's pension rights if SBP qualifications would terminate the spouse's ability to receive SBP, i.e., remarriage before age 55.)**

L. The parties shall each notify the applicable military finance center of changes in factual circumstances, and modifications or amendments to this Order, and the results of other legal proceedings, which may affect the rights created and the obligations imposed by this Order. Said notice shall be mailed to the military finance center by certified mail not later than 5 days after the occurrence of the event which may affect the terms of this Order.

M. This Court retains jurisdiction to supervise, enforce, and modify the payment of Respondent's military retired pay to Petitioner as provided for herein and to amend this Order as may be necessary to ensure it qualifies and continues to qualify as a "court

order” within the meaning of Title 10, United States Code, Section 1408.

DONE IN OPEN COURT [CHAMBERS] this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Circuit Judge

PRESENTED BY:

APPROVED FOR ENTRY:

\_\_\_\_\_

Petitioner  
Pro Se

\_\_\_\_\_

Respondent  
Pro Se

Prepared By: