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## The Divorce/Legal Separation Is Final, But You're Likely Not Done Yet: A Checklist For Getting Your QDRO Prepared Correctly The First Time

By: Corey Schechter, Esq. Contributing Author: Dianne Schechter, Paralegal

The divorce process is full of details, stress, and decisions. After the divorce is final, you and your divorce lawyer cannot drop the ball and ignore performance under the terms of the final judgment. If your final divorce decree or marital settlement agreement includes the transfer of retirement benefits, consider these helpful tips:

1. Contact and hire an experienced ERISA attorney who can help you decide the best course of action to take regarding the division of your retirement benefits. Experienced ERISA attorneys, who are familiar with complex employee benefits laws, can help you transfer any retirement plan assets by having a qualified domestic relations order ("QDRO") (a separately required court order) prepared, signed by the judge in your case and properly approved by the retirement plan administrator.
2. Have all of the proper documentation you need to get your QDRO done correctly by providing your ERISA attorney preparing your QDRO with certified copies of the final judgment of divorce from the courthouse and a copy of your certified marital settlement agreement.
3. Provide your ERISA attorney preparing your QDRO with any retirement plan documents or statements that contain the proper name of the retirement plan, and allow your experienced ERISA attorney to provide accurate valuations of your portion of the retirement benefit to be divided by the QDRO.
4. Once the dust settles, re-read your final judgment to make sure you and your now ex-spouse have complied with all its terms, especially the terms regarding division of the retirement benefit(s) and any particular details involving those benefits (such as survivor benefits, beneficiaries, and death). If your spouse refuses to comply (which sometimes happens when it is time to sign the QDRO and file the order with the court) or simply won't comply with its terms timely or by certain deadlines, let your QDRO attorney and your family law attorney know. The lawyers can file a motion for contempt or a motion to enforce a court order against your uncooperative ex-spouse.
5. There are also potential tax consequences to consider with regard to transferring retirement benefits, which is one more reason why you should hire a seasoned ERISA attorney to prepare your QDRO to divide your retirement benefits. A tax-free transfer between spouses can be accomplished with the QDRO. The QDRO allows a spouse to roll over the retirement assets he or she receives by way of the QDRO to an IRA or other qualified plan account in their name. This allows the spouse, whose account the funds are being transferred from, to avoid any taxes associated with a distribution of the account, and properly transfers the tax obligation to the spouse receiving the transferred funds at the time he or she takes a distribution of their account.

**Contact the experienced ERISA lawyers at Butterfield Schechter LLP with any questions concerning the division of your retirement benefits pursuant to a divorce or legal separation, or if you require assistance with the preparation of a QDRO or other domestic relations order to divide retirement benefits. We will worry about the details so you don't have to!**

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Mr. Schechter has been a goal-oriented individual from an early age. As a child, he aspired to become a professional golfer on the PGA Tour. His desire and hard work to attempt that feat earned him a collegiate athletic scholarship and a spot on the Division I Golf team at Seton Hall University where he began to realize his academic rather than his athletic potential. While attending Seton Hall, Mr. Schechter took a course in Political Science where he developed a deep appreciation for the rule of law in our society and the importance of the judicial system within the United States, where disputing parties can be heard and their differences resolved in a civilized manner. Inspired by his newfound enthusiasm for the law, Mr. Schechter had a change of heart regarding his intended career, choosing to major academically in Political Science with one goal in mind – to go to law school and one day become an attorney alongside his father whom he had personally witnessed work so hard to ensure the best possible results for his clients. He is proud to say that he has lived up to that goal.

Mr. Schechter's passion these days is helping others who face complex decisions involving the often difficult situation of securing a financially-sound future for themselves and their families. In doing so, he has chosen to focus his practice on legal matters arising under the Employee Retirement Income Security Act (also known as "ERISA"). His day-to-day work consists of litigating claims on behalf of employees for workers' disability insurance benefits, life insurance benefits, and retirement benefits which have been wrongfully denied by their employers and/or large insurance companies. Mr. Schechter also assists in the designing and preparation of tax-qualified (or "tax-favored") retirement plan documents, including defined contribution plans (401(k) and profit sharing plans, among others) and defined benefit plans (traditional pension plans), and also assists in the designing and preparation of non-qualified deferred compensation plans for employers of all sizes situated throughout the United States.

A large portion of Mr. Schechter's law practice is also devoted to the additional transactional work that is required for the employee retirement benefit plans he helps create, including, but not limited to, preparing required amendments due to legislative changes in the laws regulating employee benefit plans in order for these employee benefit plans to maintain their tax-favored status and preparing discretionary amendments for employee retirement benefit plans when the employer has a change in circumstances. He additionally prepares stock purchase and redemption agreements for the sale and transfer of shares between an employer and its Employee Stock Ownership Plan (commonly referred to as an "ESOP").

More recently, Mr. Schechter has chosen to dedicate a significant amount of his legal practice to the preparation of state domestic relations orders and Qualified Domestic Relations Orders (or "QDROs" for short) which are typically required in order to divide the retirement benefits of recently-divorced couples where at least one of the former spouses made contributions (or had contributions made on their behalf) to a retirement benefit plan during their marriage. He also reviews QDROs and state domestic relations orders that have been previously prepared by other counsel to ensure that the orders are in compliance with the law and that his client's interests are properly protected.

Despite his tireless effort and the natural affinity Mr. Schechter has for performing and providing the highest quality legal services to each of his clients (and the significant expenditure of time that involves), he still manages to do his best to get himself out on the golf course whenever the opportunity presents itself!

### Education

- California Western School of Law, J.D. – 2011
- National University of Ireland, Galway (International Human Rights Law) – 2010
- University of San Diego, B.A., Political Science, Magna Cum Laude – 2008
- Seton Hall University (Political Science) – 2004-2006

### Awards

- Super Lawyers, Rising Star – 2016

### Admissions

- California State Bar – 2011
- Ninth Circuit Court of Appeals – 2012
- United States Tax Court – 2012
- United States District Courts:
  - Southern District of California – 2011
  - Central District of California – 2012
  - Northern District of California – 2012