

## **FREQUENTLY ASKED QUESTIONS REGARDING DIVORCE**

### **What laws govern the General Employees' Retirement System of the City of Pompano Beach?**

The General Employees' Retirement System of the City of Pompano Beach ("Retirement System") is established and set forth in Chapter 34, §34.010 et seq., of the Pompano Beach City Code, Chapter 112 (Part VII), Florida Statutes, and the Internal Revenue Code.

### **Can my pension benefit be used for equitable distribution of marital assets or is it assignable?**

**No**, it cannot be used for equitable distribution of marital assets and it is non-assignable. Your City code has a particular provision (§34.030) regarding pension benefits being non-assignable nor subject to garnishment for debt or for other legal process. However, pursuant to Florida law your pension benefit can be used to pay for court ordered alimony or child support pursuant to an Income Deduction Order (IDO).

### **Does the Retirement System honor Qualified Domestic Relations Orders?**

**No**, because the Retirement System is a governmental plan it is not required to honor Qualified Domestic Relations Orders (QDRO).

### **Is there any case law for me or my attorney to reference related to IDO's and QDRO's?**

**Yes**, the two leading cases related to QDRO's and IDO's are set forth in the Vizcaino<sup>1</sup> case, 653 So. 2d 1012 (Fla. 1st DCA 1994) and the Alvarez<sup>2</sup> case, 580 So. 2d 1st DCA (Fla. 1991).

### **Is the Retirement System able to establish and maintain a separate account for my ex-spouse and pay to him/her an amount from my DROP account that is awarded by the Court prior to me separating from service and exiting DROP?**

**No**, the Retirement System is prohibited from fulfilling a request such as this to pay to your ex-spouse an amount from your DROP account prior to you exiting DROP.

### **Can you provide me with an IDO to use as an example?**

Florida Family Law Form 12.996(a), which can be found at,

[http://www.flcourts.org/gen\\_public/family/forms\\_rules/996a.pdf](http://www.flcourts.org/gen_public/family/forms_rules/996a.pdf) is an example of an IDO that Florida Family Law courts use in divorce cases for your reference.

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<sup>1</sup> This case established that governmental plans are excluded from ERISA and thus not subject to QDRO's.

<sup>2</sup> This case made an exception to non-assignability/non-alienation provisions, and states the Retirement System is subject to IDO's for child support and alimony.