

MOON, SCHWARTZ & MADDEN

Pension Valuation & QDRO Experts

Introductory Packet

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NORTHERN CALIFORNIA

3478 Buskirk Avenue, Suite 1000
Pleasant Hill CA 94523
(925) 258-7100

SOUTHERN CALIFORNIA

17901 Von Karman Avenue, Suite 600
Irvine CA 92614
(714) 430-8984

EMAIL

info@msmqdros.com

Thank you for choosing Moon, Schwartz & Madden (MSM).

We are a consulting firm that specializes in assisting individuals, family law attorneys and their clients in valuing and dividing the community property interest in retirement benefits. MSM is not a law firm, and therefore cannot provide legal advice of any kind to our clients, but we are considered experts by the court in the valuation and division of retirement benefits in divorce.

We provide a clear and accurate understanding of how the community property interest is defined and divided in California, New Mexico and Arizona.

ABOUT MOON, SCHWARTZ & MADDEN

Moon, Schwartz & Madden started in 1993 by Eric Moon (retired) and has grown to be the leading provider of actuarial valuations, defined contribution plan tracing and (Q)DROs in California.

Matt H. Schwartz Valuation and QDRO Expert



CURRICULUM VITAE

Matt Schwartz is a nationally known retirement benefit valuation expert in dividing community property in divorce.

Since 1995 Matt has been a recurrent expert witness for the courts on the subject of valuations and QDROs. Matt is a member of the “QDRONES”, a national study group comprised of QDRO attorneys and pension valuation experts.

John C. Madden Valuation and QDRO Expert



CURRICULUM VITAE

John Madden is a nationally known retirement benefit valuation expert in dividing community property in divorce.

Since 1999 John has been a recurrent expert witness for the courts on the subject of valuation and QDROs. He is also a frequent speaker on the subject including for AAML, Rutter Group and various Bar Associations, John is a member of the “QDRONES”, a national study group comprised of QDRO attorneys and pension valuation experts.

CLIENT POLICY

As a Self Represented client you understand the following:

- Moon, Schwartz & Madden (MSM) is a valuation-consulting firm that assists clients in determining and dividing the community property interest in all types of retirement plans.
- MSM is not a law firm, and therefore cannot give legal advice of any kind to clients. The courts consider us to be qualified as experts in the valuation and division of all types of retirement benefits.
- It is your responsibility to work with the opposing party in gathering any and all information and/or documentation required to complete the division of community property. MSM must be provided with all documents necessary to complete the requested order.
- All required documents should be mailed or emailed (preferred) to MSM. **Please contact us for a secure upload link.** Please send copies, as originals will not be returned.
- MSM is not responsible for filing any documents with the court or the plan administrator on your behalf.
- In order to have your file entered into our system, you must provide a completed intake form, a copy of your Marriage Settlement Agreement or Judgment of Dissolution of Marriage (only the section pertaining to the division of the plans), and a signed copy of this form (from any party that is self represented). Once MSM has received a completed intake form, an initial estimate of charges will be provided.
- Work will only begin once MSM has received full payment by credit card, check or money order (make sure money orders include your first and last name). Payment for Fast Track cases must be paid either by Credit Card, Cashier Check, or Money Order.
- After initial contact, any request for status updates must be submitted via email. This includes inquiries about received payments, status of QDRO preparation or any other request for information.
- MSM does not disburse funds. The plan administrator will do the transfer of funds once they have been provided with a certified copy of the QDRO. Our office cannot speculate as to the time frame of disbursement since we are not involved in that aspect of the case.
- If at any time your legal representation changes you must notify our office immediately.

COPYRIGHT, PRIVACY & USE POLICY

Valuation experts, like all providers of personal financial services, are required by law to inform their clients of their policies regarding privacy of client information. At Moon, Schwartz & Madden (MSM) we are committed to maintaining the confidentiality, integrity and security of personal information entrusted to us by you, our client. When you provide personal information to us, we believe that you should be aware of our policies to protect the confidentiality of that information.

INFORMATION COLLECTION, USE AND SHARING:

We collect nonpublic personal information about you for the purpose of offering or furnishing our products and services to you. The types of information we may collect include:

- Information we receive from you on our intake forms, such as your name, address, social security number, assets and income.
- Information about your investment history including your account statements, accrued pension benefits, defined contribution plans
- Information you may authorize us to obtain from others, such as your pension plan or employer.

We will only use your personal information for the purpose you provided it, such as to present the Services and its content to you and for the purpose of aggregated statistical analysis regarding how you and others use our Services. For any other use, we will first obtain your explicit consent.

We will not sell or rent your personal information to anyone. We will not disclose your personal information to any third party outside of our organization.

As you use our Services, we may use automatic data collection technologies to collect certain information about your equipment, browsing actions and usage patterns. The technologies we use for this automatic data collection include cookies. A cookie is a small file placed on the hard drive of your computer. You may refuse to accept browser cookies by activating the appropriate setting on your web browser.

YOUR ACCESS TO AND CONTROL OVER INFORMATION:

You may do the following at any time by contacting us at info@msmqdros.com:

- See what information we have about you, if any.
- Change, correct, or have us delete any information we have about you.
- Express any concern you have about our use of your information.

SECURITY:

We have implemented reasonable measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration and disclosure. Unfortunately, the transmission of information via the internet is not completely secure. Although we do our best to protect your personal information, we cannot guarantee the security of your personal information transmitted via our Services. Any transmission of personal information is at your own risk. We are not responsible for circumvention of any privacy settings or security measures contained in the Services.

UPDATES:

We post any changes we make to our Privacy Policy on this page. The date the Privacy Policy was last updated is identified at the bottom of this page. You are responsible for periodically visiting the Moon, Schwartz & Madden website and this Privacy Policy to check for any changes.

NO EX-PARTE COMMUNICATION

If MSM is retained as a joint expert, per Family Code 216, all parties must be included in all communication with our office (regardless of who pays our fee).

FLC §216.

(a) In the absence of a stipulation by the parties to the contrary, there shall be no ex parte communication between the attorneys for any party to an action and any court-appointed or court-connected evaluator or mediator, or between a court-appointed or court-connected evaluator or mediator and the court, in any proceedings under this code, except with regard to the scheduling of appointments.

(b) There shall be no ex parte communications between counsel appointed by the court pursuant to Section 3150 and a court-appointed or court-connected evaluator or mediator, except when it is expressly authorized by the court or undertaken pursuant to paragraph (5) of subdivision (c) of Section 3151.

(c) Subdivisions (a) and (b) shall not apply in the following situations:

(1) To allow a mediator or evaluator to address a case involving allegations of domestic violence as set forth in Sections 3113, 3181, and 3192.

(2) To allow a mediator or evaluator to address a case involving allegations of domestic violence as set forth in Rule 5.215 of the California Rules of Court.

(3) If the mediator or evaluator determines that ex parte communication is needed to inform the court of the mediator's or evaluator's belief that a restraining order is necessary to prevent an imminent risk to the physical safety of the child or the party.

*(d) This section shall not be construed to limit the responsibilities a mediator or evaluator may have as a mandated reporter pursuant to Section 11165.9 of the Penal Code or the responsibilities a mediator or evaluator have to warn under *Tarasoff v. Regents of the University of California* (1976) 17 Cal.3d 425, *Hedlund v. Superior Court* (1983) 34 Cal.3d 695, and Section 43.92 of the Civil Code.*

(e) The Judicial Council shall, by July 1, 2006, adopt a rule of court to implement this section.

(Amended by Stats. 2019, Ch. 115, Sec. 2. (AB 1817) Effective January 1, 2020.)

CALIFORNIA EVIDENCE CODE §730

(Court Appointed Expert)

What is the purpose of CA. Evid. Code §730

This designation takes place so that court appointed expert can provide an opinion and recommendation to the Court. A §730 evaluator is the Court's appointed expert and is not hired by either party. Therefore, a court ordered 730 evaluation is intended to be an unbiased, objective evaluation of facts or a matter for which an expert opinion will help the Court.

What does CA. Evidence Code §730 actually state?

ARTICLE 2. Appointment of Expert Witness by Court [730 - 733]

“§730. When it appears to the court, at any time before or during the trial of an action, that expert evidence is or may be required by the court or by any party to the action, the court on its own motion or on motion of any party may appoint one or more experts to investigate, to render a report as may be ordered by the court, and to testify as an expert at the trial of the action relative to the fact or matter as to which the expert evidence is or may be required. The court may fix the compensation for these services, if any, rendered by any person appointed under this section, in addition to any service as a witness, at the amount as seems reasonable to the court.”

HOW TO COMPLETE OUR INTAKE FORMS

Please complete all requested fields in their entirety.
(Intake Forms available [here](#))

Section 1

Legal Representation

Please complete based on your current legal representation. If you have an attorney of record, please provide their name and contact information.

If you are in Mediation or are Self Represented, please be sure to review and sign our Self Represented Policy Form (available [here](#)).

Section 2

Plan Participant

This section should be completed with the name and contact information of the party to whom the plan(s) belongs, meaning this is the party that has been making contributions to the plan(s).

If you are not sure if he/she is the Petitioner or the Respondent, please review your Judgment or Marital Settlement Agreement.

The Plan Entry Date is the date on which contributions to the plan began. If you are not sure of the exact date, you can indicate whether they began before marriage or during marriage.

The Name of Retirement Plan field is required. Please be sure to provide the name of the plan we are to address. If there is more than one (1) plan, please list all additional plans on the Supplemental Intake Form (available [here](#)) and respond to all questions.

Section 3

Alternate Payee

This section should be completed with the name and contact information of the opposing party (former spouse).

For example, if the Plan Participant is Ms. Smith, the Alternate Payee is Mr. Smith.

QDRO EXPLANATIONS

Investment gains/losses in 401(k) award

Unless your Judgment states otherwise, the amount awarded to the non-participant spouse shall include a proportionate share of investment return from the award date through the distribution date.

Pre-retirement Separate Interest

This form of Domestic Relations Order assigns to an Alternate Payee a portion of the participant spouse's monthly accrued benefit as his or her sole and separate property. It is the view of this firm that not all ERISA employers fully accept this format. In many cases the "separate interest" becomes effective upon qualification of the Domestic Relations Order (QDRO), or upon the early of alternate payee or participant's benefit commencement. If the separate interest is not created until benefit commencement, the QDRO should reference the Qualified Pre-retirement Survivor Annuity (QPSA) as described below.

Post-retirement Shared Interest

This form of Domestic Relations Order does not automatically give an Alternate Payee an interest that is payable over the lifetime of said Alternate Payee. To insure that payments to this Alternate Payee are not extinguished by the death of the titled-spouse it is necessary to specifically award in the Property Settlement Agreement that the Alternate Payee is entitled to both QPSA (see above) and Joint & Survivor Annuity benefits.

Qualified Preretirement Survivor Annuity (QPSA)

Qualified Preretirement Survivor Annuity (QPSA) is a form of a death benefit paid as a life annuity (a series of payments, usually monthly, for life) to the surviving spouse (or a former spouse, child or dependent who must be treated as a surviving spouse under a QDRO) of a participant who was vested in his or her retirement plan benefits; died before retirement; and was married to the surviving spouse (for at least one year if the plan so provides) (or to a former spouse named in a QDRO). If the plan does not allow for an immediate separate interest upon acceptance of the QDRO then the order must name the alternate payee for a portion of the QPSA should participant die before either participant or alternate payee's benefit commencement.

Qualified Joint and Survivor Annuity (QJSA)

Qualified Joint and Survivor Annuity (QJSA) is a form of a death benefit paid as a life annuity (a series of payments, usually monthly, for life) to the surviving spouse (or a former spouse, child or dependent who must be treated as a surviving spouse under a QDRO) of a participant who was vested at retirement. Under federal law, a participant is who is married at retirement must elect a minimum 50% QJSA for their spouse (unless the spouse signs a waiver) which in almost all circumstances cannot be changed upon divorce after retirement. In most cases if the QDRO is entered prior to participant's retirement, no QJSA is required. This may not be appropriate if the parties have health issues and we encourage you to discuss with your attorney.

Early Retirement Subsidy

An early retirement subsidy relates to the reduction in monthly benefits due to early benefit commencement. Typically, the plan will reduce benefits by 6% per year when benefits begin before the age of 65. However, if the plan offers subsidized early retirement benefits and the participant retires early, the plan may reduce the benefit by 3-5% per year instead of 6%. This is an example of subsidized early retirement benefits and such subsidies are considered community property in California.

A Cost of Living Adjustment (COLA)

A Cost of Living Adjustment (COLA) is intended to protect the purchasing power of a retiree's pension from the erosive effect of inflation. Generally, these increases are based on the September to September changes in the Consumer Price Index as prepared by the Department of Labor and apply to public retirement plans only (CalPERS, FERS, Military, etc). MSM recommends including a COLA increase provision into your Property Settlement Agreement.

RETIREMENT PLAN VALUATION

What is it and do you need it?

Retirement Plan Valuations are used when the parties wish to consider offsetting marital assets such as the family home against the pension. The common methods used for valuing retirement plans are as follows:

Actuarial Pension Valuation

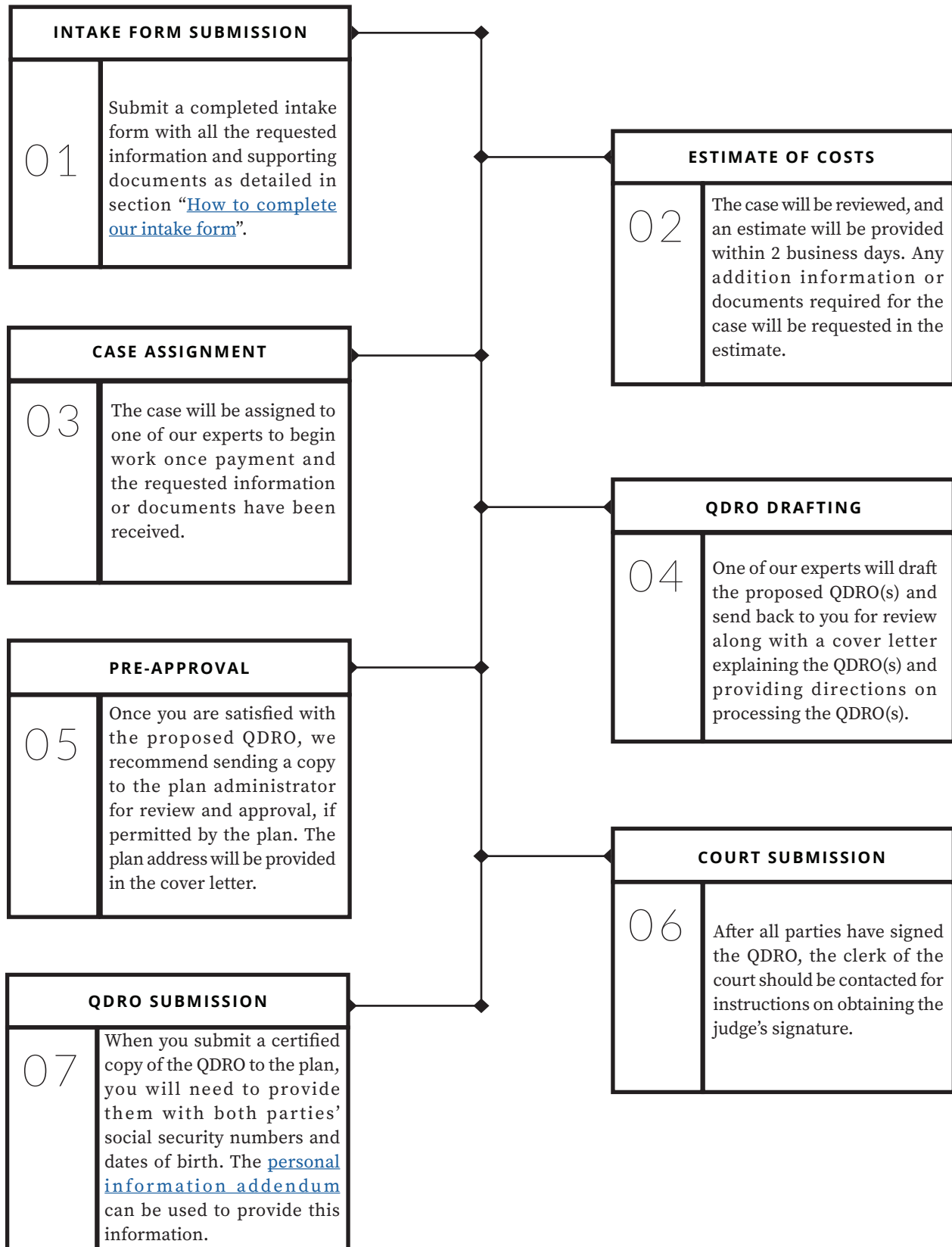
Actuarial Pension Valuation is used to calculate the present day lump sum community and separate property values in a pension plan (defined benefit plan). The valuation provides an estimate of the value of the pension as well as the community and separate property portion of the account.

Tracing

Tracing is used to determine the community and separate property contributions in 401(k) plans, IRAs, 403(b)s, etc.

A Retirement Plan Valuation **does not actually divide the retirement plan** (that requires a (Q)DRO), but it can be very helpful if you are considering buying out your spouse or offsetting against the equity in the family home.

QDRO PROCESS



ADDENDUM TO QUALIFIED DOMESTIC RELATIONS ORDER

For Submission to Plan Administrator ONLY

Do not file this Addendum with the court when you file the QDRO

ADDENDUM TO QUALIFIED DOMESTIC RELATIONS ORDER

For Submission to Plan Administrator ONLY

**Do not file this Addendum with the court when you file the
Qualified Domestic Relations Order**

Participant's Information	Alternate Payee's Information
Name:	Name:
Address:	Address:
SSN:	SSN:
Date of Birth:	Date of Birth:
Email Address:	Email Address:
Participant Attorney's Information	Alternate Payee's Attorney's Information
Name:	Name:
Address:	Address:
Email Address:	Email Address:
Plan Name:	

MSM CLIENT POLICY FORM

SELF REPRESENTED CLIENT POLICY *(in Propria Persona)*

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- **If MSM is retained as a joint expert, per Family Code 216, both parties must be included in all communication with our office.**
- **MSM does not disburse funds.** The plan administrator will do the transfer of funds once they have been provided with a certified copy of the QDRO. Our office cannot speculate as to the time frame of disbursement since we are not involved in that aspect of the case.
- **MSM reserves the right to require parties be represented by attorneys.**
- **Your signature declares that in the eyes of the court, you are self-represented. If at any time, you retain counsel you must notify our office immediately.**

By signing this page, you agree to the following guidelines and rules for Self Represented Clients:

Petitioner

Date

Respondent

Date

***THANK YOU FOR CHOOSING
MOON, SCHWARTZ & MADDEN.***