NORTH CAROLINA                                       IN THE GENERAL COURT OF JUSTICE

                                                                                    DISTRICT COURT DIVISION

\_\_\_\_ COUNTY                                                                       \_\_ CVD \_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_,                                 )

                                    Plaintiff,            )

                                                            )           **EQUITABLE DISTRIBUTION ORDER**

                        vs.                                )           **DIVIDING TSERS BENEFITS**

                                                            )

\_\_\_\_\_\_\_\_\_\_\_,                                     )

                                    Defendant.        )

            THIS CAUSE coming on to be heard and being heard before the undersigned District Court Judge Presiding for entry of an Equitable Distribution Order dividing \_\_\_\_\_\_\_\_\_ Teachers and State Employees Retirement System (TSERS) benefits, and it appearing to the Court that the \_\_\_\_\_\_\_\_\_ is represented by \_\_\_\_\_\_\_\_\_\_ and that the \_\_\_\_\_\_\_\_\_ is represented by \_\_\_\_\_\_\_\_\_\_\_\_\_\_; and

            IT FURTHER APPEARING TO THE COURT that this is order is pursuant to N.C. Gen. Stat. 50-20, 50-20.1, and that an order of this Court is necessary to effectuate the division of certain benefits in The Teachers and State Employees Retirement System;

            AND IT FURTHER APPEARING TO THE COURT and the Court makes the following:

FINDINGS OF FACT

            1.         \_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_ are residents of \_\_\_\_ County, North Carolina.

            2.         The parties were married on \_\_\_\_\_\_\_\_\_\_\_\_\_, were separated on \_\_\_\_\_ and were divorced o \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

            3.         The matter of equitable distribution has been preserved in this action.  The Court has both personal and subject matter jurisdiction to enter an Equitable Distribution Order dividing \_\_\_\_\_\_\_\_\_ TSERS benefits in this matter.

            4.         This Order relates to the provision of marital property rights under the laws of North Carolina.

            5.         At the time of the parties separation, the \_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_, Social Security number \_\_\_\_\_\_\_\_\_\_\_\_, was a member of the Teachers and State Employees Retirement System of North Carolina (hereinafter the Retirement System), having 27.3 years of creditable service with the Retirement System.  His current and last known address is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

            6          The date that \_\_\_\_\_\_\_\_\_ began earning benefits in the Retirement System  was \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  During the parties marriage and before their date of separation, \_\_\_\_\_\_\_\_\_ earned 21.4 creditable years of service in the Retirement System.

            7.         This Order recognizes the \_\_\_\_\_\_\_\_\_ (hereinafter the non-member ex-spouse) interest in the benefits payable by the Retirement System to the \_\_\_\_\_\_\_\_\_ (hereinafter the member).  \_\_\_\_\_\_\_\_\_ shall select Option 2 under N.C. Gen. 135-5(g) for payment of his monthly benefits and shall nominate \_\_\_\_\_\_\_\_\_ to receive the Option 2 retirement allowance upon \_\_\_\_\_\_\_\_\_ death.  During \_\_\_\_\_\_\_\_\_ lifetime, the non-member ex-spouse share of the total monthly benefits payable by the Retirement System under Option 2 shall be calculated as follows: fifty per cent (50%) of the amount determined by multiplying the total Option 2 monthly benefit by a fraction, the numerator of which shall be \_\_\_\_ (the total years of creditable service earned during the marriage), and the denominator of which shall be the member total number of years of creditable service at the time of retirement.

            8.         \_\_\_\_\_\_\_\_\_ shall not be permitted to make a withdrawal of accumulated contributions and interest pursuant to N.C. Gen. Stat. 135-5(f) or N.C. Gen. Stat. 135-5(g1).

            9.         \_\_\_\_\_\_\_\_\_ shall designate \_\_\_\_\_\_\_\_\_ as beneficiary for the return of contributions and interest pursuant to N.C. Gen. Stat. 135-5(f) or for the survivor's alternate benefit pursuant to N.C. Gen. Stat. 135-5(m) in the event that \_\_\_\_\_\_\_\_\_ dies while in active service and is survived by \_\_\_\_\_\_\_\_\_.  In addition, \_\_\_\_\_\_\_\_\_ shall designate \_\_\_\_\_\_\_\_\_ as beneficiary of the Group Life Insurance Plan death benefit payable under N.C. Gen. Stat. 135-5(l).

            WHEREFORE, based upon the foregoing Findings of Fact, the Court concludes as a matter of law that as a part of the parties equitable distribution, \_\_\_\_\_\_\_\_\_ is entitled to the entry of this order directing the distribution, in the manner set forth below, to \_\_\_\_\_\_\_\_\_ of a portion of all benefits payable by the Retirement System to \_\_\_\_\_\_\_\_\_.

            NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

            1.         The term member refers to the \_\_\_\_\_\_\_\_\_ herein, and the term non-member ex-spouse refers to the \_\_\_\_\_\_\_\_\_ herein.

            2.         The name, last known mailing address, social security number, and date of birth of the member are:

            3.         The name, last known mailing address, social security number, and date of birth of the non-member ex-spouse are:

            4.         The name and mailing address of the Retirement System to which this Order is directed are: The Teachers and State Employees Retirement System of North Carolina, Retirement Systems Division, Department of State Treasurer, 325 North Salisbury Street, Raleigh, North Carolina 27603-1388.

            5.         The Retirement System shall distribute to the non-member ex-spouse her interest in the member benefits payable by the Retirement System, calculated pursuant to the provisions of Findings of Fact 7, 8 and 9 this Order.

            6.         The non-member ex-spouse shall receive her share of the member retirement benefits at such time and in such payment form as said benefits are paid to the member.

            7.         In the event that the non-member ex-spouse predeceases the member, the non-member ex-spouse share of the member retirement benefits shall be paid to such person or persons as are named in the non-member ex-spouse will, or in the absence of any such designation, to her heirs by intestate succession.

            8.         Nothing in this Order shall be construed to require the Retirement System to provide to the non-member ex-spouse any type or form of benefit or any option not otherwise available to the member.

            9.         A copy of this Order shall be served upon the Administrator of the Teachers and State Employees Retirement System of North Carolina, and the Administrator shall determine, within a reasonable period of time, whether this Order can be administered by the Retirement System.  This Order shall take effect immediately and shall remain in effect until further orders of this Court.

            10.       This Court reserves jurisdiction over the parties and the Retirement System with respect to this Order to the extent required to divide the member benefits between the parties as set forth herein.  The Court shall also retain jurisdiction to enter such further orders as are necessary to enforce the assignment of benefits to the non-member ex-spouse as set forth herein.

            This the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

                                                                        \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

                                                                        District Court Judge Presiding