

UNDERSTANDING RETIREMENT PLANS IN A DIVORCE

In divorce matters, under Florida law, pension and retirement plans are considered marital assets. Therefore, it is necessary for the spouses to determine the value of the plan and/or divide the plan by a specific court order called a **Qualified Domestic Relations Order (QDRO)**.

Additionally, pension and retirement plans may have a nonmarital value if the plan pre-existed the marriage. The nonmarital value should be determined as well.

Once the value of the plan is determined, the spouse who has contributed to the plan (“participant spouse”) can decide if he/she wishes to keep all of the plan benefits in exchange for other marital assets.

A **QDRO** is a court order instructing a plan administrator to provide a portion of the plan to the non-participant spouse. The plan administrator must approve the order to make sure it doesn’t violate the terms and conditions of the plan.

A **QDRO** is necessary if the participant spouse can’t trade off other marital assets or the spouses can’t agree on the plan’s value. Some plans (i.e. military and government pension plans), however, do not accept QDRO’s.

During Keith’s representation of you, he may discuss the need to hire a “pension valuator”. The information needed from you to value a pension or retirement plan is as follows:

- *Both spouses’ full names, dates of birth, and social security numbers*
- *Date of birth of the participant spouse*
- *Date of marriage*
- *Date of employment*
- *Name of the plan*
- *Information stating the accrued benefits*
- *Whether the non-participant spouse is deemed to be a survivor*

