

## MEMORANDUM

To: Attorneys Practicing Family Law in Division FM-E  
From: Judge Maureen T. Horkan  
Date: November 25, 2020  
Re: Qualified Domestic Relations Orders

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### QDROs Require Either Consent or a Motion and Hearing

The language of a QDRO determines the parties' rights to what is often the single largest marital asset: a spouse's pension or retirement account.

Even where a court entering a Final Judgment of Dissolution of Marriage retains jurisdiction to enter a Qualified Domestic Relations Order (QDRO), it cannot enter that QDRO without either: (a) consent, or (b) a hearing on a motion.

The fact that the proposed form of QDRO may emanate from a plan administrator does not affect the requirement for either consent or a motion and hearing.

QDROs can be the source of significant litigation. *See, e.g., Peeples v. Peeples*, 871 So.2d 945 (Fla. 1<sup>st</sup> DCA 2004)(even though the QDRO was entered by consent and pursuant to the final judgment, the former husband serially filed multiple post-QDRO motions, including a Motion to Clarify; a Motion for Relief from Order; and a Supplemental Petition to Vacate and Set Aside the Qualified Domestic Relations Order; First District held that *res judicata* barred the second and third efforts to vacate the order), and *DeChellis v. DeChellis*, 925 So.2d 379, 381 (Fla. 4<sup>th</sup> DCA 2006)(QDRO was entered by consent but plan administrator took exception to some of the language; Former Wife submitted a proposed revised QDRO without a motion and without a hearing; trial court erred in entering the revised order; “[b]ecause the effect of a QDRO is to produce a final result, adequate notice become even more imperative.”)

The Court cannot enter the QDRO which has been forwarded to it in this case because it does not bear the signatures of counsel for the parties and the signatures of any *pro se* parties. If it is impossible to obtain signatures consenting to entry of a given QDRO, either party, acting pursuant to a reservation in the Final Judgment of Dissolution of Marriage, may file a Motion for Entry of Qualified Domestic Relations Order and notice a brief hearing on the motion.