

SOUTH CENTRAL PENSION RIGHTS PROJECT

3 QDROs

Participant filed for divorce in Texas District Court and the agreed divorce decree was rendered in January of 2023. Both sides were represented by attorneys, Alternate Payee by an attorney with a family legal assistance non-profit. No QDROs were rendered for three Plans: **Teamster-UPS National 401(k) Tax Deferred Savings Plan, UPS/IBT Full Time Employee Pension Plan, and UPS Pension Plan**. The divorce decree became final after 30 days.

The Alternate Payee Attorney with the legal assistance non-profit contacted TLSC, which referred the case to SCPRP. SCPRP collaborated with the Alternate Payee Attorney, who filed an enforcement petition to enter postdivorce domestic relations orders in the District Court, while SCPRP represented Alternate Payee on QDRO qualification with the three Plans.

UPS/IBT Full Time Employee Pension Plan: Sent in draft QDRO, which was pre-approved. After the Judge signed the pre-approved draft QDRO it was sent to the Plan, which determined it was a QDRO.

Teamster-UPS National 401(k) Tax Deferred Savings Plan: SCPRP sent in a draft QDRO via USPS certified mail for pre-approval. Received a call from Outside Counsel to UPS that QDROs for this Plan must be uploaded at the Plan's QDRO portal and once the QDRO is uploaded, SCPRP will get a response. However, the portal did not work. According to Outside Counsel: "The message you received (which is in the process of being changed because it is admittedly confusing ... a small hiccup in an otherwise new and very efficient website) refers only to the QDRO Portal itself." The Plan then accepted the draft QDRO by USPS mail, and pre-approved it. After the Judge signed the approved draft QDRO, and SCPRP was unable to upload it to the Plan's QDRO portal, a certified copy was sent to the Plan via overnight mail, and the Plan determined it was a QDRO.

UPS Pension Plan: Sent in draft QDRO for pre-approval, received response:

"Please be advised that we have reviewed the proposed domestic relations order with respect to the above referenced participant in the UPS Pension Plan (the "Plan"), submitted to the Plan on May 16, 2023, and have determined it to be unacceptable to the Plan for the following reason:

The proposed order states that it is intended to apply to, and utilizes the model QDRO, for the UPS Pension Plan. Please note that all of Mr. [Participant's] credited service under the Plan accrued prior to the parties' date of marriage.

During the parties' dates of marriage, Mr. [Participant] accrued credited service under the UPS/IBT Full-Time Employee Benefits Pension Plan. These two plans have very different provisions and different QDRO requirements. For this reason, a model QDRO for the UPS/IBT Full-Time Employee Benefits

Pension Plan has been included with this correspondence to assist you in preparing an order which would be acceptable to the Plan.”

The letter on the draft QDRO for the UPS Pension Plan says Participant did not accrue any benefit during the marriage but does not address the period from January 1, 2008, until the parties’ date of marriage in late 2010. The presumption is that that either Participant did not accrue any retirement benefit in the UPS Pension Plan on or after January 1, 2008, or, more likely, the UPS Pension Plan is unwilling to award any benefits to Alternate Payee that were accrued by Participant under the Plan before marriage.

One question is whether the Plan has the power to reject the QDRO just because a portion of the award was accrued prior to the date of marriage. SCPRP and Alternate Payee Attorney decided to get all three QDROs signed by the Judge, and go ahead and submit the signed UPS Pension Plan QDRO to the UPS Pension Plan, which could reject the QDRO if they wanted on the basis of an assignment date prior to marriage, in which case we would consider filing an appeal with the UPS Pension Plan’s Review Committee and arguing in the appeal that the Plan cannot reject the QDRO based on the portion of assignment that is outside of marriage.

The Signed QDRO was delivered to the UPS Pension Plan on October 12, 2023. The QDRO determination is pending.