

FAMILY LAW & THE MILITARY:

What Every Practitioner Should Know

2007 Bench & Bar Family Law Institute

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I. JURISDICTION.

A. Subject Matter Jurisdiction to Grant Dissolution.

1. C.R.S. 14-10-106(1)(a)(I) requires one party be CO domiciliary for 90 days before filing.
2. Being stationed in CO pursuant to military orders, without more, insufficient for jurisdiction. Viernes v. District Court, 509 P.2d 306 (Colo. 1973).
3. State Taxes section of LES (Attachment A) shows state of residence as reported to military.
4. Civilian spouse residing in CO generally means jurisdiction.

B. Personal Jurisdiction over Servicemember. Jurisdiction to grant dissolution not imply jurisdiction to resolve all issues:

1. Children. UCCJEA, C.R.S. 14-13-101, *et seq*, confers jurisdiction if CO is child's home state, or emergency, regardless of where respondent served.
2. Child Support.

- a. Long-Arm Statute, C.R.S. 13-1-124(1)(e), requires obligee maintain CO matrimonial domicile after obligor leaves.
- b. UIFSA, C.R.S. 14-5-201, *et seq*, confers jurisdiction if:
 - i. Personal service in CO
 - ii. Consent
 - iii. Previously lived in CO with child
 - iv. Previously lived in CO & paid support or prenatal expenses
 - v. Child lives in CO as result of obligor's acts
 - vi. Child conceived as result of intercourse in CO.
- 3. Maintenance. If no personal jurisdiction, must satisfy Long-Arm Statute.
- 4. Property outside of CO. Personal jurisdiction required.
- 5. Military Retirement. More restrictive jurisdiction requirement.

II. DIVISION OF MILITARY RETIREMENT

A. Authority

- 1. Federal Law. Uniformed Services Former Spouses' Protection Act (USFSPA), 10 U.S.C. § 1408(c)(4). Requires:
 - a. Residence not due to military orders,
 - b. Domicile, or
 - c. Consent (can be broadly interpreted!)
- 2. USFSPA preempts state law, and CO lacks subject-matter jurisdiction to divide retirement absent domicile or affirmative conduct of servicemember demonstrating express or implied consent. Marriage of Akins, 932 P.2d 863 (Colo. App. 1997).
- 3. Colorado. Marriage of Gallo, 752 P.2d 47 (Colo. 1988). Retirement is property interest, so survives remarriage.

B. Retirement Pay Subject to Division. Per 10 U.S.C. §1408(a)(4), Disposable Retired Pay ("Taxable Pay") is total retired pay minus:

- 1. Owed to U.S. due to previous retired pay overpayments.
- 2. Deducted from retired pay as result of court-martial forfeiture.
- 3. Waived to receive VA Disability.
- 4. Survivor Benefit Plan (SBP) premiums.

C. Retiree Account Statement (Attachment B) issued annually or if change in circumstances.

D. Calculating Marital Share.

1. Marriage of Hunt, 909 P.2d 525 (Colo. 1995). “Time Rule” formula, or “coverture” fraction. Spouse’s share is one-half of months of marriage overlapping military service, divided by total months of creditable service at time of retirement.
2. Servicemember Still on Active Duty. Hunt authorizes three methods:
 - a. Net Present Value. Immediately distribute spouse’s share, based upon coverture formula, actuarial tables, risks, possible promotions, etc. Authorized even when retirement not yet vested. Marriage of Riley-Cunningham, 7 P.3d 992 (Colo. App. 1999).
 - b. Deferred Distribution. Share calculated at dissolution, receipt deferred until retirement matured and vested.
 - c. Reserve Jurisdiction. Share calculation deferred until retirement vested and matured. Most common method.
3. Reserves/National Guard.
 - a. Similar formula applies – marital share is reserve retirement points acquired during marriage divided by total reserve retirement points upon retirement. See this page for information on getting statement of retirement points: www.military-divorce-guide.com/reserve-family-law.htm
 - b. Retirement requires 20 years of creditable service (at least 50 points during year)
 - c. Retirement paid when retiree reaches 60.

E. Direct Payment from DFAS

1. More than 10 years of marriage overlapping military service (10/10 rule). Requirement likely to be relaxed in future.
2. Order must contain following:

- a. Indication that rights under Servicemembers Civil Relief Act were respected.
 - b. Indication of jurisdiction over servicemember (residence, domicile, or consent).
 - c. Marriage date, and indication that 10/10 rule met, and
 - d. Percentage (or dollar amount) awarded to former spouse.
3. No QDRO necessary, just the following:
 - a. Certified copy of decree & order dividing retirement.
 - b. DD Form 2293 (Attachment C). See: www.dtic.mil/whs/directives/infomgt/forms/efoms/dd2293.pdf
 4. Maximum amount DFAS pays is 50% of disposable retired pay.
 5. Sample Language for Order (Attachment D).

F. Receipts in Lieu of Retirement.

1. VA Disability. See below.
2. Career Status Bonus (lump sum \$30,000). See February 2005 *Army Lawyer* discussion (URL is impossible, so Google “Army Lawyer”).
3. VSI/SSB. Divisible asset. Marriage of Heupel, 936 P.2d 561 (Colo. 1997).
4. Administrative Separation. Full or partial separation pay may be available.

G. More Information: www.dfas.mil/retiredpay.html

III. TYPES OF MILITARY RETIREMENT

A. Final Pay

1. Service commenced before 9/8/1980.
2. Each year of service worth 2.5% of final base pay up to 100%.
3. Annual COLA based upon CPI.

B. High 3

1. Service commenced 9/8/1980 or later.
2. Each year of service worth 2.5% of average of highest 36 months of base pay, up to 100%
3. Annual COLA based upon CPI.

C. Redux

1. Service commenced 8/1/1986 or later AND servicemember selected Career Status Bonus.
2. 1st 20 years of service worth 2% of average of highest 36 months of base pay.
3. Each year of service between 20 and 30 worth 3.5%, up to 100%.
4. Annual COLA 1% below CPI, with “catch-up” recalculation at age 62.

D. Cap on Retired Pay. Previously, only 30 years of creditable service counted towards retirement, which was capped at 75% of based pay. This 75% cap eliminated, effective 2007.

E. Retirement Calculators. www.armyg1.army.mil/rso/abt.asp

F. Thrift Savings Plan

1. 401(k) style plan. See LES blocks 63 – 75 for current year contribution information.
2. More Information: www.tsp.gov/index.html

IV. VA DISABILITY

A. Concept. Servicemember with service-connected disability entitled to receive VA disability payments.

B. Waiver. Retired Pay is waived, dollar for dollar, by receipt of VA disability, except for:

1. At least 50% disability rating – Servicemember receives CRDP, phased in over 10-year period starting 2004. 10 U.S.C. §1414. Restoration rate is not linear. No LES – see bank statement for “VA Benefits.”

2. Combat-related disability rating of at least 10%. (Combat-Related Special Compensation, or CRSC). Has LES.
3. More on Concurrent Retirement & Disability Pay (CRDP): www.dfas.mil/retiredpay/concurrentretirementanddisabilitypay/crdppaymentrates.html

C. Pre-Dissolution Disability – Not Divisible.

1. Mansell v. Mansell, 490 U.S. 581, 109 S.Ct. 2023, 104 L.Ed.2d 657 (1989).
2. Marriage of Franz, 831 P.2d 917 (Colo. App. 1992)

D. Post-Dissolution Disability – Must Indemnify to extent of Waiver.

1. Marriage of Lodeski, 107 P.3d 1097 (Colo. App. 2004).
2. Marriage of Warkocz, 141 P.3d 926 (Colo. App. 2006). Retiree required to indemnify former spouse for reduction in retirement due to VA waiver, even without specific indemnity clause.
3. Majority rule in jurisdictions which have considered issue. For information on other states, see July 2006 *Army Lawyer*, or call me.

E. VA Disability Tables: www.vba.va.gov/bln/21/Rates/comp01.htm

V. SURVIVOR BENEFIT PLAN (SBP)

A. “Insurance policy” on retirement.

1. If retiree dies, pays surviving beneficiaries monthly amount equal to 55% of “designated base amount”.
2. Maximum “designated base amount” is base pay.
3. Required to elect maximum spousal coverage if married, unless spouse consents. 10 U.S.C. §1448(a)(3)(A).
4. Annual COLA.

B. Potential Beneficiaries:

1. Spouse/former spouse (if under 55, must be unmarried), as long as at least one year of marriage or a child. 10 U.S.C. § 1447.
2. Children if under 18 or in college and under 22,
3. Disabled children, if disability happened while under 18 or in college under 22.

C. Premiums (Spouse coverage only – children more complicated).

1. 6.5% of designated base amount (Spouse only – children cheaper, but more complicated)
2. Potential alternative if base amount \$1320 or less could be cheaper.
3. Premium Calculator:
<https://w11.afpc.randolph.af.mil/RetSepCalcNET/default.aspx>
4. Premiums stop once retiree is 70 and has paid 360 months of premiums, effective 10/1/2008.
5. Premium payments in discretion of court. Marriage of Payne, 897 P.2d 888 (Colo. App. 1995). Typically divided equally.

D. Deemed Election.

1. As protection in case servicemember fails to opt for former spouse SBP coverage, former spouse can request coverage directly from DFAS.
2. Deemed election must be made within one year of order requiring SBP coverage.
3. Sample letter (Attachment E).

E. More Information: www.afpc.randolph.af.mil/SBP/.

VI. MILITARY PAY

- A. DOD Financial Management Regulation (FMR)** (DOD 7000.14-R, Volume 7A). Everything you ever wanted to know about military pay. See: www.defenselink.mil/COMPROLLER/FMR/07a/

B. Leave & Earnings Statement (LES) (Attachment A, Entitlements Section).

1. Base Pay. Affected by pay grade (i.e. rank) & years of service. FMR, Chapter 1. See pay tables (Attachment F) at: www.dfas.mil/militarypay/2006militarypaytables.html
2. BAH (Basic Allowance for Housing). Eligible if not in military housing. FMR § 260101(C). Affected by pay grade, marital status, and locality. See BAH Lookup at: <https://secureapp2.hqda.pentagon.mil/perdiem/bah.html>. Types of BAH:
 - a. BAH-With. When married or custody of child. FMR § 260301(4).
 - b. BAH-Without. Single and no child.
 - c. BAH-Diff. When paying court-ordered child support. FMR § 260416(C).
3. BAS (Basic Allowance for Subsistence). 2007 Rates: Officers \$192.74, Enlisted \$279.88. FMR, Chapter 25.
4. Overseas (“OCONUS”) Allowances (Includes AK & HI)
 - a. COLA. See: <https://secureapp2.hqda.pentagon.mil/perdiem/ocform.html>
 - b. Overseas Housing Allowance (OHA). See: <https://secureapp2.hqda.pentagon.mil/perdiem/ohaform.html>
 - c. Hardship Duty Pay (HDP). FMR, Chapter 17. Typically \$50 - \$150, depending upon location.
5. Deployments.
 - a. Hostile Fire Pay \$225.
 - b. Family Separation Allowance. FMR, Chapter 27. \$250 if away from family at least 30 days.
 - c. HDP. \$100 Iraq/Afghanistan
 - d. Per Diem
6. Other. Jump pay, flight pay, professional pay, annual bonuses, reenlistment bonuses, etc.

- C. **Colorado Law.** Gross income child support statute includes all pay & allowances. If servicemember lives in family housing, BAH imputed. Marriage of Long, 921 P.2d 67 (Colo. 1996).

VII. **SERVICEMEMBERS CIVIL RELIEF ACT OF 2003** (Formerly SSCRA of 1940).

A. **Stay of Proceedings When Notice. 50 U.S.C. App. § 202.**

1. Court **may**, on own motion, and **shall**, upon application by a servicemember which meets these criteria, stay the proceedings for at least 90 days:
 - a. Applicant is in military service, or within 90 days after it ended,
 - b. Applicant has actual notice of the proceeding,
 - c. Application is written, and includes facts stating (i) how service materially affects ability to appear, and (ii) date when servicemember may appear, and
 - d. Application includes communication from commander that military duty prevents appearance, and military leave not authorized.
2. Initial 90-day stay is mandatory. Thereafter, servicemember may apply for additional stay, using same criteria. Court must grant application unless appoints attorney to represent servicemember.
3. Simply being stationed overseas, thereby making it harder to appear, does not materially affect ability to appear. Telephonic testimony, 30 days annual leave, cooperative military.
4. If request for stay denied, servicemember cannot then invoke §201 to set aside default judgment.
5. Sample Motion for Stay (Attachment G).

B. **Protection Against Default Judgment. 50 U.S.C. App. § 201.**

1. Provides servicemember in civil action with relief against default judgment.
2. Petitioner seeking default judgment must first submit affidavit stating whether Respondent is in military, or whether Petitioner does not know. Judgment obtained without affidavit is voidable if

servicemember later shows that military service prejudiced the presentation of a defense.

3. If cannot determine status of military service from affidavit, Court may require bond to indemnify Respondent against any loss.
4. Court shall reopen default judgment and allow servicemember to defend when:
 - a. Judgment entered during military service or within 60 days thereafter,
 - b. Servicemember's ability to defend materially affected by service,
 - c. Servicemember has meritorious or legal defense, and
 - d. Application to reopen is made during the military service, or within 90 days after it ended. Technically, this means total military service, not just the specific contingency which prevented servicemember from appearing.

VIII. TEMPORARY FAMILY SUPPORT.

A. Applicability. Physical separation without court order or agreement. Important if servicemember deploys before support order enters.

B. Army

1. AR 608-99. www.usapa.army.mil/pdffiles/r608_99.pdf
2. Amount equal to BAH-II-WITH (page 2 of pay chart) to civilian spouse not in military housing. Pro-rated if family divided, other rules if dual military. Para. 2-6.
3. No in-kind payments, with limited exceptions (e.g. rent/mortgage or essential utilities). Para. 2-9.
4. Relief. Battalion/Squadron commander may relieve soldier of spousal obligation (not children) if civilian spouse has higher income, is in jail, has committed physical abuse against soldier, or soldier has already paid support per regulation for 18 months. Para. 2-14.

C. Air Force:

1. AFI 36-2906, section 3-2. See: www.e-publishing.af.mil/pubfiles/af/36/afi36-2906/afi36-2906.pdf.
2. Servicemember must "provide adequate financial support of a spouse or child or any other relative for which the member receives additional allowances for support. Members will also comply with the financial support provisions of a court order or written support agreement."
3. In-kind payments are allowed.

D. Navy

1. MILPERSMAN 1754-030, chapter 4.
http://buperscd.technology.navy.mil/bup_updt/upd_CD/BUPERS/MILPERS/Articles/1754-030.PDF
2. Support is fraction of sailor's "gross pay" (defined as base pay plus BAH, if entitled, but excludes all other allowances, such as BAS, hostile fire pay, etc).
3. Sample Amounts: Spouse only: 1/3. Spouse & 1 minor child: 1/2. Spouse & 2 or more children: 3/5.
4. Relief. Servicemember may request waiver of spousal portion only (not children) on grounds of desertion without cause, physical abuse or adultery – submit through chain of command to the Director, Navy Family Allowance Activity.

E. Marine Corps.

1. LEGADMINMAN, Chapter 15.
<http://sja.hqmc.usmc.mil/Pubs/P5800/15.pdf>.
2. Amounts depend upon no. of dependents, and are greater of a specific dollar amount or a pro rata share of BAH, up to maximum of 1/3 full gross pay.
3. Relief: Commanding officer may relieve marine of obligation where marine cannot determine "whereabouts and welfare of the child concerned", civilian spouse committed documented physical abuse against marine, or is in jail.

F. Enforcement

1. Violation of Lawful General Regulation is UCMJ Article 92 offense.
2. No ability to divert money, just disgorge it.
3. Fort Carson
 - a. Legal Assistance: 526-0490
 - b. Inspector General: 526-3900
4. Peterson AFB
 - a. Legal Assistance: 556-4500
 - b. Inspector General: 556-2104
5. Air Force Academy
 - a. Legal Assistance: 333-3940
 - b. Inspector General: 333-3490

IX. GARNISHMENT FOR CHILD SUPPORT/MAINTENANCE

- A. Active Duty.** Send court order via certified mail to:
DFAS-GAG/CL
PO Box 998002
Cleveland, Ohio 44199-8002
- B. Retiree.** Utilize DD Form 2293 & certified copy of support order.
- C. VA Disability.**
 1. Subject to garnishment for support/maintenance. 42 U.S.C. § 659(h)(1)(A)(v), Rose v. Rose, 107 S.Ct. 2029 (1987).
 2. Contact VA Regional Office – call (800) 527-1000 to determine appropriate office.
 3. In Colorado, the VA contact information is:
VA Regional Office
155 Van Gordon St.
Lakewood CO 80228
Tel. (800) 827-1000
Fax (303) 914-5879

(Mailing Address)
VA Regional Office
Box 25126
Denver CO 80225

D. Percentage subject to garnishment. 5 CFR § 581.402

1. 50% if providing support to dependents not covered by order.
2. 55% if providing support to other dependents, but has arrearage.
3. 60% if not providing support to other dependents.
4. 65% if no support to other dependents and arrearage.

X. FORMER SPOUSE MILITARY BENEFITS

A. During separation or legal separation– all benefits.

B. 20/20/20 Rule

1. 20 years of marriage, 20 years of service, 20 years of overlap.
2. Full benefits.
3. Exceptions:
 - a. Medical suspended while covered by employee plan.
 - b. Medical terminated upon remarriage.
 - c. Installation privileges (PX, Commissary) suspended during remarriage.

C. 20/20/15 Rule

1. 20 years of marriage, 20 years of service, 15 years of overlap.
2. Transitional medical benefits for up to one year.
3. Exceptions:
 - a. Not apply if covered by employee plan.
 - b. Terminated upon remarriage.

D. COBRA. Available for Tricare, but not cheap.

E. Domestic Violence Victims.

1. Transitional Compensation, and exchange/commissary privileges, when service member separated for domestic violence. 10 U.S.C. § 1059, implemented by DOD Instruction 1342.24.
2. Rates are pegged to Department of Veterans Affairs' Dependency & Indemnity Compensation, established by 38 U.S.C. §1311. As of December 2006, was \$1067 for spouse, \$265 for each child. See: www.vba.va.gov/bln/21/Rates/comp03.htm
3. Duration – minimum 12 months, maximum the lesser of 36 months or servicemember's length of service. Terminate upon remarriage, or if servicemember resides in same household.
4. Eligible for portion of retirement if retirement-eligible when separated for domestic violence. 10 U.S.C. § 1408(h).
5. More information – contact Victim/Witness Coordinator at servicemember's installation.

F. Children/stepchildren. Under 22 and unmarried.

XI. PATERNITY.

- A. Paternity must be judicially-determined before child has access to military benefits. DOD Instruction 1000.13.
- B. No obligation to pay child support absent court order.

XII. MISC. ISSUES

- A. **Adultery.** UCMJ, Article 134.
- B. **Restraining Orders.** Federal law prohibits possession of firearms. 18 U.S.C. § 922(g)(9). Exception for military (§ 925).
- C. **Misdemeanor Domestic Violence conviction.** Lautenberg Amendment prohibits possession of firearms and NO exception for military. 18 U.S.C. § 922(g)(8).

XIII. INDEX TO ATTACHMENTS

- A.** Leave & Earnings Statement (LES)
- B.** Retiree Account Statement
- C.** DD Form 2293 (application for former spouse payments from retired pay)
- D.** Sample Language to Divide Retirement
- E.** Sample Letter for Deemed SBP Election.
- F.** Military Pay Chart
- G.** Sample Motion for SCRA Stay

DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT

ID	NAME (Last First MI)	SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED
			04	821222	24	888888	AF	4029	1-28 FEB 07

ENTITLEMENTS		DEDUCTIONS		ALLOTMENTS		SUMMARY	
Type	Amount	Type	Amount	Type	Amount	+Amt Fwd .00	
A	BASE PAY 6252.30	FEDERAL TAXES	603.85	COMB FED CAMPAIGN	10.00	+Tot Ent 7980.04	
B	BAS 192.74	FICA-SOC SECURITY	387.64	AFAF ALLOT	10.00		
C	BAH 1535.00	FICA-MEDICARE	90.66	TRICARE DENTAL	27.63	-Tot Ded 4291.57	
D		SGLI	29.00	INSURANCE ALLOT	469.44	-Tot Allt 517.07	
E		FAMILY SGLI	9.00			=Net Amt 3171.40	
F		MID-MONTH-PAY	3171.42			-Cr Fwd .00	
G						=EOM Pay 3171.40	
H							
I							
J							
K							
L							
M							
N							
O							
	TOTAL						
			7980.04		4291.57		
					517.07		

DIEMS 821222 RETPLAN HIGH 3

LEAVE	BF Bal 60.0	Ernd 12.5	Used 0	Cr Bal 72.5	ETS Bal .0	Lv Lost .0	Lv Paid .0	Use/Lose 30.0	FED TAXES	Wage Period 6252.30	Wage YTD 12504.60	M/S M	Ex 04	Add'l Tax .00	Tax YTD 1207.70
FICA TAXES	Wage Period 6252.30	Soc Wage YTD 12504.60	Soc Tax YTD 775.28	Med Wage YTD 12504.60	Med Tax YTD 181.32	STATE TAXES CA	Wage Period 6252.30	Wage YTD 12504.60	M/S N	Ex 00	Tax YTD .00				
PAY DATA	BAQ Type W/DEP	BAQ Depn SPOUSE	VHA Zip 80914	Rent Amt .00	Share 1	Stat R	JFTR	Depns 0	2D JFTR	BAS Type	Charity YTD 40.00	TPC	PACIDN		
THRIFT SAVINGS PLAN (TSP)	Base Pay Rate 0	Base Pay Current .00	Spec Pay Rate 0	Spec Pay Current .00	Inc Pay Current 0	Inc Pay Current .00	Bonus Pay Rate 0	Bonus Pay Current .00	TSP YTD Deductions .00	Deferred .00	Exempt .00				

REMARKS: **YTD ENTITLE 15960.08** **YTD DEDUCT 2240.30**

IF TSP ELECTION AMT EXCEEDS NET AMT DUE, TSP WILL NOT BE DEDUCTED.

-USSDP CONTRIBUTIONS ARE PROCESSED MANUALLY AS AN ALLOTMENT OF PAY. INFO ON MYPAY IS UPDATED MONTHLY AFTER EOM PAYROLL IS PROCESSED AND USSDP TOTALS ARE UPDATED.PLEASE ALLOW 60 DAYS TO VIEW YOUR ACCOUNT ON MYPAY.

-GET YOUR TAX REFUND IN HALF THE TIME WITH IRS E-FILE AND DIRECT DEPOSIT INTO YOUR ACCOUNT. FOR MORE INFO SEE WWW.IRS.GOV/FILE AND WWW.FMS.TREAS.GOV/EFT.

-WWW.MILITARYONESOURCE.COM HAS FREE FEDERAL AND STATE TAX PREPARATION AND FILING. LOG ON OR CALL 1-800-342-9647 TODAY!

-BECOME A CAREER ENLISTED AVIATOR! VISIT VMPF RETRAINING PAGE & HTTPS://AFKM.WPAFB.AF.MIL/CEA FOR ADDITIONAL INFORMATION.

-YOUR 2006 FEDERAL AND STATE INCOME TAXES ARE DUE! FOR FREE TAX ASSISTANCE AND ELECTRONIC FILING, TAKE YOUR W-2 FORM TO YOUR INSTALLATION TAX ASSISTANCE CENTER OR SUPPORTING LEGAL ASSISTANCE OFFICE. DON'T DELAY - FILE TODAY!

CURRENTLY YOU CLAIM EXEMPT FROM SITW, REVIEW YOUR EXEMPT STATUS TO BE SURE IT IS CORRECT.

BAH BASED ON W/DEP, ZIP 80914

BANK SAFE FCU

WWW.DOD.MIL/DFAS

RETIREE ACCOUNT STATEMENT

STATEMENT EFFECTIVE DATE DEC 02, 2006	NEW PAY DUE AS OF JAN 02, 2007	SSN
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PLEASE REMEMBER TO NOTIFY DFAS IF YOUR ADDRESS CHANGES	DFAS-CL POINTS OF CONTACT
	DEFENSE FINANCE AND ACCOUNTING SERVICE US MILITARY RETIREMENT PAY PO BOX 7130 LONDON KY 40742-7130 COMMERCIAL (216) 522-5955 TOLL FREE 1-800-321-1080 TOLL FREE FAX 1-800-469-6559 myPay https://myPay.dfas.mil 1-877-363-3677

PAY ITEM DESCRIPTION					
ITEM	OLD	NEW	ITEM	OLD	NEW
GROSS PAY	1,469.00	1,517.00	FITW	23.67	25.20
VA WAIVER	690.00	712.00	FORMER SPOUSE DED	210.47	217.51
SBP COSTS	110.83	114.48			
TAXABLE INCOME	457.70	473.01			
			NET PAY	434.03	447.81

PAYMENT ADDRESS	YEAR TO DATE SUMMARY (FOR INFORMATION ONLY)
DIRECT DEPOSIT	TAXABLE INCOME: 5,492.40 FEDERAL INCOME TAX WITHHELD: 284.04

TAXES	
FEDERAL WITHHOLDING STATUS:	SINGLE
TOTAL EXEMPTIONS:	00
FEDERAL INCOME TAX WITHHELD:	25.20

SURVIVOR BENEFIT PLAN (SBP) COVERAGE			
SBP COVERAGE TYPE:	FORMER SPOUSE	ANNUITY BASE AMOUNT:	1,526.47
SPOUSE ONLY COST:	99.22	55% ANNUITY AMOUNT:	839.58
OPEN SEASON COST:	15.26	45% ANNUITY AMOUNT:	686.91
		SPOUSE DOB:	MAY 15, 1950
THE ANNUITY PAYABLE IS 55% OF YOUR ANNUITY BASE AMOUNT UNTIL YOUR SPOUSE REACHES AGE 62. AT AGE 62, THE ANNUITY MAY BE REDUCED DUE TO SOCIAL SECURITY OFFSET, OR UNDER THE TWO-TIER FORMULA. THAT REDUCTION MAY RESULT IN AN ANNUITY THAT RANGES BETWEEN 45% (\$ 686.91) AND 55% (\$ 839.58) OF THE ANNUITY BASE AMOUNT. THE COMBINATION OF THE SBP ANNUITY AND THE SOCIAL SECURITY BENEFITS WILL PROVIDE TOTAL PAYMENTS FROM DFAS AND THE SOCIAL SECURITY ADMINISTRATION OF AT LEAST 55% OF YOUR BASE AMOUNT. THE ACTUAL ANNUITY PAYABLE IS DEPENDENT ON FACTORS IN EFFECT WHEN THE ANNUITY IS ESTABLISHED.			

APPLICATION FOR FORMER SPOUSE PAYMENTS FROM RETIRED PAY*(Please read instructions on back and the Privacy Act Statement before completing this form.)*OMB No. 0730-0008
OMB approval expires
Dec 31, 2007

The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Services Directorate (0704-0008). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

FOR OFFICIAL USE**PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE SERVICE ADDRESS LISTED ON BACK.****PRIVACY ACT STATEMENT**

AUTHORITY: Title 10 USC 1408; EO 9397.

PRINCIPAL PURPOSE(S): To request direct payment through a Uniformed Service designated agent of court ordered child support, alimony, or division of property to a former spouse from the retired pay of a Uniformed Service member.

ROUTINE USE(S): In addition to those disclosures generally permitted under 5 U.S.C. Section 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. Section 552a(b)(3) as follows:

Records are provided to the Internal Revenue Service for normal wage and tax withholding purposes. The "Blanket Routine Uses" published at the beginning of the DFAS compilation of systems of records notices also apply.

DISCLOSURE: Voluntary; however, failure to provide requested information may delay or make impossible processing this direct payment request.

1. APPLICANT IDENTIFICATION	2. SERVICE MEMBER IDENTIFICATION
a. NAME (As appears on court order) (Last, First, Middle Initial)	a. NAME (Last, First, Middle Initial)
b. CURRENT NAME (Last, First, Middle Initial)	b. SOCIAL SECURITY NUMBER
c. SOCIAL SECURITY NUMBER	c. BRANCH OF SERVICE
d. ADDRESS (Street, City, State, ZIP Code)	d. ADDRESS (Street, City, State, ZIP Code) (If known)

3. REQUEST STATEMENT

I request direct payment from the retired pay of the above named Uniformed Service member based on the enclosed court order.

I request payment of:

(1) Child support in the amount of \$ _____ per month.

(2) Alimony, spousal support or maintenance in the amount of \$ _____, or _____ percent of disposable retired pay per month.

(3) A division of property in the amount of \$ _____, or _____ percent of disposable retired pay per month.

I certify that any request for current child and/or spousal support is not being collected under any other wage withholding or garnishment procedure authorized by statute. Furthermore, I certify that the court order has not been amended, superseded or set aside and is not subject to appeal. As a condition precedent to payment, I agree to refund all overpayments and that they are otherwise recoverable and subject to involuntary collection from me or my estate, and I will notify the appropriate agent (as listed on back) if the operative court order, upon which payment is based, is vacated, modified, or set aside. I also agree to notify the appropriate agent (as listed on back) of a change in eligibility for payments. This includes notice of my remarriage, if under the terms of the court order or the laws of the jurisdiction where it was issued, remarriage causes the payments to be reduced or terminated; or notice of a change in eligibility for child support payments by reason of the death, emancipation, adoption, or attainment of majority of a child whose support is provided through direct payments from retired pay. I hereby acknowledge that any payment to me must be paid from disposable retired pay as defined by the statute and implementing regulations.

4. I HAVE ENCLOSED ALL PERTINENT DOCUMENTATION TO INCLUDE: (X as applicable)

a. A copy of the operative court order and other accompanying documents that provide for payment of child support, alimony or a division of retired pay as property, containing a certification dated by the clerk of the court within 90 days preceding the date the application is received by the designated agent.

b. Evidence of the date(s) of my marriage to the member if the application is for the direct payment of a division of the member's disposable retired pay as property. Give **MARRIAGE DATE (YYYYMMDD)** in this block unless stated in court order.

c. If payment request includes child support, give name(s) and birth date(s) of child(ren):

(1) **NAME OF CHILD (Last, First, Middle Initial)**

(2) **DATE OF BIRTH (YYYYMMDD)**

(1) NAME OF CHILD (Last, First, Middle Initial)	(2) DATE OF BIRTH (YYYYMMDD)

d. Other information (please identify) or remarks.

5a. **APPLICANT'S SIGNATURE**

b. **DATE SIGNED**

INSTRUCTIONS FOR COMPLETION OF DD FORM 2293

GENERAL. These instructions govern an application for direct payment from retired pay of a Uniformed Service member in response to court ordered child support, alimony, or a division of property, under the authority of 10 USC 1408.

SERVICE OF APPLICATION. You may serve the application by mail on the appropriate Uniformed Service designated agent. The Uniformed Services' designated agents are:

(1) **ARMY, NAVY, AIR FORCE, AND MARINE CORPS:** Attn: DFAS-CL/GAG, Assistant General Counsel for Garnishment Operations, DEFENSE FINANCE AND ACCOUNTING SERVICE - CLEVELAND, P.O. Box 998002, Cleveland, OH 44199-8002;

(2) **COAST GUARD:** Commanding Officer (LGL), United States Coast Guard, Human Resources Service and Information Center, 444 S.E. Quincy Street, Topeka, KS 66683-3591;

(3) **PUBLIC HEALTH SERVICE:** Attn: Retired Pay Section, CB, Division of Commissioned Personnel, PUBLIC HEALTH SERVICE, Room 4-50, 5600 Fishers Lane, Rockville, MD 20857-0001;

(4) **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:** Same as U.S. Coast Guard.

IMPORTANT NOTE: Making a false statement or claim against the United States Government is punishable. The penalty for willfully making a false claim or false statement is a maximum fine of \$10,000 or maximum imprisonment of 5 years or both (18 USC 287 and 1001).

ITEM 1.

- a. Enter full name as it appears on the court order.
- b. Enter current name if different than it appears on court order.
- c. Enter Social Security Number.
- d. Enter current address.

ITEM 2.

- a. Enter former spouse's full name as it appears on the court order.
- b. Enter former spouse's Social Security Number.
- c. Enter former spouse's branch of service.
- d. Enter former spouse's current address, if known.

ITEM 3. Read the Request Statement carefully.

ITEM 4. A certified copy of a court order can be obtained from the court that issued the court order. Other documents include, but are not limited to, final divorce decree, property settlement order, and any appellate court orders. If the court order does not state that the former spouse was married to the member for ten years or more while the member performed ten years creditable service and the request is for payment of a division of property, the applicant must provide evidence to substantiate the ten years' marriage condition. Additional evidence must show that the ten years' requirement has been met, including: Uniformed Service orders, marriage certificate, and other documents that establish the period of marriage. Other information or documents included with the request should be clearly identified by the document's title and date. Remarks may be provided to clarify specific points.

ITEM 5. Self-explanatory.

SAMPLE MILITARY RETIREMENT LANGUAGE

Military Retirement

1) The Husband is a member of the U.S. Army, having served on active duty continuously from ***. This Court has jurisdiction over the Husband to treat his military retirement as marital property subject to division because he consented to jurisdiction **OR resides in and maintains Colorado as his state of legal domicile. All of his applicable rights under the Servicemembers Civil Relief Act have been adequately protected or waived.

2) Effective the first month in which the Husband becomes entitled to the receipt of retired pay, and continuing each month thereafter until the death of either party, the Wife shall receive her share of the Husband's disposable retired pay, including annual COLAs, determined as follows:

$$\begin{array}{rcl} 1 & \text{*** Months of marriage overlapping military service} & \\ \text{---} & \times & \text{-----} = \text{ _____\%} \\ 2 & \text{*** Months of creditable service at retirement} & \end{array}$$

3) The current disposable retired pay is \$*** per month, and the Wife's share is about \$**.

OR

3) As the share cannot be determined until retirement, the Husband shall advise the Wife of his prospective retirement or separation from the military or from active duty, at least 90 days in advance. Within 14 days of receipt, the Husband shall provide the Wife with a copy of any documents pertaining to his separation or the receipt of any money in lieu of retirement, including retirement orders, DD 214, Retiree Account Statement, Statement of Service, chronological statement of retirement points, VA Disability documents, etc.

4) The Court retains jurisdiction to enter any appropriate orders pertaining to the military retirement, including, but not limited to, enforcing the division of retirement, dividing any money received in lieu of retirement, compensating the wife for any reduction in the disposable retired pay available for division, etc.

5) The Wife's share of the military retirement is reportable as income to her.

6) Because the parties were married on ***, they have more than 10 years of marriage overlapping the military service and the Wife shall receive direct payment of her share from DFAS, pursuant to 10 U.S.C. § 1408(d). The Wife shall apply to the Defense Finance and Accounting Service (DFAS) for her portion of the military retirement, utilizing DD Form 2293, or any other necessary form. If at any time, however, the Wife has not received her direct payment, the Husband shall pay the Wife her share of the disposable retired pay within 5 days of receiving it, and such payments shall be characterized as maintenance for tax purposes.

OR

6) Because the parties do not have more than 10 years of marriage overlapping the Husband's military service, the Husband shall pay the Wife her share of the retirement directly. Within 5 days of receipt of each payment, he shall tender to the Wife her share of the retired pay.

7) Anytime the disposable retired pay changes, within 14 days of receipt the Husband shall provide the Wife with the DFAS-CL, VA documents, or any other documents relevant to the change. This does not apply to annual COLAs if DFAS is directly paying the Wife her share of the retirement.

8) Prior to retirement, the Husband shall make an irrevocable election to participate in the Survivor Benefit Plan (SBP), designating the Wife as the beneficiary for an annuity which pays her an amount no less than her share of the retirement. He shall submit to the Wife proof of enrollment, and any other forms pertaining to SBP within 30 days of receiving or filling out the form. The parties shall divide equally the costs of the SBP), and to the extent that the Husband is assessed any greater portion by DFAS, the Wife shall compensate the Husband for the difference each month.

9) The Wife is authorized to receive information pertaining to the Husband's retirement, including amounts and dates of service. In the event that DFAS or another agency require a written release for such information, a copy of this Agreement constitutes a written release for that purpose.

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July 9, 2007

Defense Finance and Accounting Service
U.S. Military Retirement Pay
P.O. Box 7130
London, KY 70742-7130

Re: Request for Former Spouse Survivor Benefit Plan (SBP) Coverage

Servicemember:

Name:
SSN:
Status: Active Duty

Former Spouse:

Name:
SSN:
Date of Birth:
Address:

Dear Sir or Madam:

I represent the former spouse of the above-referenced service member. Pursuant to 10 U.S.C. §1448(f), my client requests a deemed election for former spouse SBP coverage, and that you retain these documents on file in the event that the servicemember does not make the election as required.

As support for this request, enclosed is a certified copy of an Order from the El Paso County, Colorado District Court (Case # ***), requiring the servicemember to elect SBP coverage with his former spouse as the beneficiary (specifically, see paragraph *** of the Separation Agreement).

My client understands that this letter does NOT effect the division of military retirement, and that upon the servicemember's retirement, if she is eligible for direct payment from DFAS, she

will still need to submit a DD Form 2293 with a certified copy of the decree. She further understands that she has the obligation to advise you of her current mailing address in the event she moves.

Thank you for your cooperation in this matter, and please advise if you require any additional or corrected information.

Sincerely,

Carl Graham

CF: Client

BASIC PAY—EFFECTIVE JANUARY 1, 2007¹

Cumulative Years of Service

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 ²												13,659.00	13,725.90	14,011.20	14,508.60
O-9												11,946.60	12,118.50	12,367.20	12,801.30
O-8	8,453.10	8,729.70	8,913.60	8,964.90	9,194.10	9,577.20	9,666.30	10,030.20	10,134.30	10,447.80	10,900.80	11,319.00	11,598.30	11,598.30	11,598.30
O-7	7,023.90	7,350.00	7,501.20	7,621.20	7,838.40	8,052.90	8,301.30	8,548.80	8,797.20	9,577.20	10,236.00	10,236.00	10,236.00	10,236.00	10,287.90
O-6	5,206.20	5,719.20	6,094.50	6,094.50	6,117.60	6,380.10	6,414.60	6,414.60	6,779.10	7,423.80	7,802.10	8,180.10	8,395.20	8,613.00	9,035.70
O-5	4,339.80	4,888.80	5,227.50	5,291.10	5,502.00	5,628.60	5,906.40	6,110.10	6,373.20	6,776.40	6,968.10	7,158.00	7,373.10	7,373.10	7,373.10
O-4	3,744.60	4,334.70	4,623.90	4,688.40	4,956.90	5,244.60	5,602.80	5,882.40	6,076.20	6,187.50	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30
O-3	3,292.20	3,732.30	4,028.40	4,392.00	4,602.00	4,833.00	4,982.70	5,228.40	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90
O-2	2,844.30	3,239.70	3,731.40	3,857.40	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60
O-1	2,469.30	2,569.80	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50
O-3 ³				4,392.00	4,602.00	4,833.00	4,982.70	5,228.40	5,435.40	5,554.20	5,715.90				
O-2 ³				3,857.40	3,936.60	4,062.00	4,273.50	4,437.00	4,558.80	4,558.80	4,558.80				
O-1 ³				3,106.50	3,317.70	3,440.10	3,565.50	3,688.80	3,857.40	3,857.40	3,857.40				
W-5												5,845.80	6,046.50	6,247.50	6,450.00
W-4	3,402.00	3,660.00	3,765.00	3,868.50	4,046.40	4,222.20	4,400.70	4,574.10	4,753.80	5,035.50	5,215.80	5,392.20	5,574.90	5,754.90	5,938.80
W-3	3,106.80	3,236.40	3,369.00	3,412.80	3,552.00	3,711.30	3,921.60	4,129.20	4,350.00	4,515.60	4,680.60	4,751.40	4,824.60	4,984.20	5,143.20
W-2	2,732.70	2,888.70	3,025.50	3,124.50	3,209.70	3,443.70	3,622.50	3,755.10	3,885.00	3,973.80	4,048.80	4,191.00	4,332.30	4,475.40	4,475.40
W-1	2,413.20	2,610.60	2,742.90	2,828.40	3,056.10	3,193.50	3,315.30	3,451.20	3,541.20	3,622.80	3,755.40	3,856.20	3,856.20	3,856.20	3,856.20
E-9 ⁴							4,110.60	4,203.90	4,321.20	4,459.50	4,598.40	4,821.60	5,010.30	5,209.20	5,512.80
E-8						3,364.80	3,513.90	3,606.00	3,716.40	3,835.80	4,051.80	4,161.30	4,347.30	4,450.50	4,704.90
E-7	2,339.10	2,553.00	2,650.80	2,780.70	2,881.50	3,055.20	3,152.70	3,250.20	3,424.20	3,511.20	3,593.70	3,644.10	3,814.80	3,925.20	4,204.20
E-6	2,023.20	2,226.00	2,324.40	2,419.80	2,519.40	2,744.10	2,831.40	2,928.30	3,013.50	3,043.50	3,064.50	3,064.50	3,064.50	3,064.50	3,064.50
E-5	1,854.00	1,977.90	2,073.30	2,171.40	2,323.80	2,454.90	2,551.50	2,582.10	2,582.10	2,582.10	2,582.10	2,582.10	2,582.10	2,582.10	2,582.10
E-4	1,699.50	1,786.50	1,883.10	1,978.50	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80
E-3	1,534.20	1,630.80	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20
E-2	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90
E-1 ⁵	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40	1,301.40

Notes:

1. Basic pay for an O-7 to O-10 is limited by Level II of the Executive Schedule which is **\$14,000.10**. Basic pay for O-6 and below is limited by Level V of the Executive Schedule which is **\$11,349.90**.
2. While serving as Chairman, Joint Chief of Staff/Vice Chairman, Joint Chief of Staff, Chief of Navy Operations, Commandant of the Marine Corps, Army/Air Force Chief of Staff, Commander of a unified or specified combatant command, basic pay is **\$15,959.40** (See note 1 above).
3. Applicable to O-1 to O-3 with at least 4 years and 1 day of active duty or more than 1460 points as a warrant and/or enlisted member. See Department of Defense Financial Management Regulations for more detailed explanation on who is eligible for this special basic pay rate.
4. For the Master Chief Petty Officer of the Navy, Chief Master Sergeant of the AF, Sergeant Major of the Army or Marine Corps or Senior Enlisted Advisor of the JCS, basic pay is **\$6,642.60**. Combat Zone Tax Exclusion for O-1 and above is based on this basic pay rate plus Hostile Fire Pay/Imminent Danger Pay which is \$225.00.
5. Applicable to E-1 with 4 months or more of active duty. Basic pay for an E-1 with less than 4 months of active duty is \$1,203.90.

BASIC PAY—EFFECTIVE APRIL 1, 2007¹

Cumulative Years of Service

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26	Over 28	Over 30	Over 32	Over 34	Over 36	Over 38	Over 40
O-10 ²												13,659.00	13,725.90	14,011.20	14,508.60	14,508.60	15,234.00	15,234.00	15,995.70	15,995.70	16,795.50	16,795.50
O-9												11,946.60	12,118.50	12,367.20	12,801.30	12,801.30	13,441.50	13,441.50	14,113.50	14,113.50	14,819.10	14,819.10
O-8	8,453.10	8,729.70	8,913.60	8,964.90	9,194.10	9,577.20	9,666.30	10,030.20	10,134.30	10,447.80	10,900.80	11,319.00	11,598.30	11,598.30	11,598.30	11,598.30	11,888.40	11,888.40	12,185.70	12,185.70	12,185.70	12,185.70
O-7	7,023.90	7,350.00	7,501.20	7,621.20	7,838.40	8,052.90	8,301.30	8,548.80	8,797.20	9,577.20	10,236.00	10,236.00	10,236.00	10,236.00	10,287.90	10,287.90	10,493.70	10,493.70	10,493.70	10,493.70	10,493.70	10,493.70
O-6	5,206.20	5,719.20	6,094.50	6,094.50	6,117.60	6,380.10	6,414.60	6,414.60	6,779.10	7,423.80	7,802.10	8,180.10	8,395.20	8,613.00	9,035.70	9,035.70	9,216.30	9,216.30	9,216.30	9,216.30	9,216.30	9,216.30
O-5	4,339.80	4,888.80	5,227.50	5,291.10	5,502.00	5,628.60	5,906.40	6,110.10	6,373.20	6,776.40	6,968.10	7,158.00	7,373.10	7,373.10	7,373.10	7,373.10	7,373.10	7,373.10	7,373.10	7,373.10	7,373.10	7,373.10
O-4	3,744.60	4,334.70	4,623.90	4,688.40	4,956.90	5,244.60	5,602.80	5,882.40	6,076.20	6,187.50	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30
O-3	3,292.20	3,732.30	4,028.40	4,392.00	4,602.00	4,833.00	4,982.70	5,228.40	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90
O-2	2,844.30	3,239.70	3,731.40	3,857.40	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60
O-1	2,469.30	2,569.80	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50
O-3 ³				4,392.00	4,602.00	4,833.00	4,982.70	5,228.40	5,435.40	5,554.20	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90	5,715.90
O-2 ³				3,857.40	3,936.60	4,062.00	4,273.50	4,437.00	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80	4,558.80
O-1 ³				3,106.50	3,317.70	3,440.10	3,565.50	3,688.80	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40	3,857.40
W-5												6,049.50	6,356.40	6,585.00	6,838.20	6,838.20	7,180.20	7,180.20	7,539.30	7,539.30	7,916.40	7,916.40
W-4	3,402.00	3,660.00	3,765.00	3,868.50	4,046.40	4,222.20	4,400.70	4,669.20	4,904.40	5,128.20	5,310.90	5,489.70	5,752.20	5,967.60	6,213.60	6,213.60	6,337.80	6,337.80	6,337.80	6,337.80	6,337.80	6,337.80
W-3	3,106.80	3,236.40	3,369.00	3,412.80	3,552.00	3,825.90	4,110.90	4,245.30	4,400.40	4,560.30	4,847.70	5,042.40	5,158.50	5,282.10	5,450.10	5,450.10	5,450.10	5,450.10	5,450.10	5,450.10	5,450.10	5,450.10
W-2	2,749.20	3,009.30	3,089.40	3,144.60	3,322.80	3,600.00	3,737.10	3,872.40	4,037.70	4,166.70	4,284.00	4,423.80	4,515.90	4,589.40	4,589.40	4,589.40	4,589.40	4,589.40	4,589.40	4,589.40	4,589.40	4,589.40
W-1	2,413.20	2,672.40	2,742.90	2,890.50	3,065.10	3,322.20	3,442.20	3,610.20	3,775.50	3,905.10	4,024.50	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00	4,170.00
E-9 ⁴							4,110.60	4,203.90	4,321.20	4,459.50	4,598.40	4,821.60	5,010.30	5,209.20	5,512.80	5,512.80	5,788.50	5,788.50	6,078.00	6,078.00	6,381.90	6,381.90
E-8						3,364.80	3,513.90	3,606.00	3,716.40	3,835.80	4,051.80	4,161.30	4,347.30	4,450.50	4,704.90	4,704.90	4,799.10	4,799.10	4,799.10	4,799.10	4,799.10	4,799.10
E-7	2,339.10	2,553.00	2,650.80	2,780.70	2,881.50	3,055.20	3,152.70	3,326.70	3,471.00	3,569.70	3,674.40	3,715.50	3,852.00	3,925.20	4,204.20	4,204.20	4,204.20	4,204.20	4,204.20	4,204.20	4,204.20	4,204.20
E-6	2,023.20	2,226.00	2,324.40	2,419.80	2,519.40	2,744.10	2,831.40	3,000.00	3,051.90	3,089.70	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50	3,133.50
E-5	1,854.00	1,977.90	2,073.30	2,171.40	2,323.80	2,483.70	2,613.90	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10	2,630.10
E-4	1,699.50	1,786.50	1,883.10	1,978.50	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80	2,062.80
E-3	1,534.20	1,630.80	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20	1,729.20
E-2	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90	1,458.90
E-1 ⁵	1,301.40																					

Notes:

- Basic pay for an O-7 to O-10 is limited by Level II of the Executive Schedule which is **\$14,000.10**. Basic pay for O-6 and below is limited by Level V of the Executive Schedule which is \$11,349.90.
- While serving as Chairman, Joint Chief of Staff/Vice Chairman, Joint Chief of Staff, Chief of Navy Operations, Commandant of the Marine Corps, Army/Air Force Chief of Staff, Commander of a unified or specified combatant command, basic pay is **\$17,972.10** (See note 1 above).
- Applicable to O-1 to O-3 with at least 4 years and 1 day of active duty or more than 1460 points as a warrant and/or enlisted member. See Department of Defense Financial Management Regulations for more detailed explanation on who is eligible for this special basic pay rate.
- For the Master Chief Petty Officer of the Navy, Chief Master Sergeant of the AF, Sergeant Major of the Army or Marine Corps or Senior Enlisted Advisor of the JCS, basic pay is **\$6,642.60**. Combat Zone Tax Exclusion for O-1 and above is based on this basic pay rate plus Hostile Fire Pay/Imminent Danger Pay which is \$225.00.
- Applicable to E-1 with 4 months or more of active duty. Basic pay for an E-1 with less than 4 months of active duty is \$1,203.90.

ALLOWANCES

Basic Allowance for Housing RC/Transient					Family Separation Allowance							
Pay Grade	Partial	Without Dependent	With Dependent	Differential	All Pay Grades: \$250							
0-10	\$ 50.70	\$ 1202.40	\$ 1,479.30	\$ 283.50	Basic Allowance for Subsistence (Effective January 1, 2007)							
0-9	\$ 50.70	\$ 1,202.40	\$ 1,479.30	\$ 283.50								
0-8	\$ 50.70	\$ 1,202.40	\$ 1,479.30	\$ 283.50								
0-7	\$ 50.70	\$ 1,202.40	\$ 1,479.30	\$ 283.50	Officers: \$192.74 Enlisted: \$279.88							
0-6	\$ 39.60	\$ 1,102.80	\$ 1,331.70	\$ 234.90	Clothing Allowances							
0-5	\$ 33.00	\$ 1,062.00	\$ 1,283.70	\$ 226.80								
0-4	\$ 26.70	\$ 984.00	\$ 1,131.60	\$ 150.90	Standard Initial Clothing Allowance (Enlisted Members Only)							
0-3	\$ 22.20	\$ 789.00	\$ 936.30	\$ 150.60	Army		Navy		Air Force		Marine Corps	
0-2	\$ 17.70	\$ 625.20	\$ 798.90	\$ 177.60	Male	Female	Male	Female	Male	Female	Male	Female
0-1	\$ 13.20	\$ 527.10	\$ 715.20	\$ 192.60	1,336.84	1,609.30	1,174.65	1,410.01	1,312.24	1,534.28	1,211.70	1,482.64
03E	\$ 22.20	\$ 851.70	\$ 1,006.20	\$ 158.40	Cash Clothing Replacement Allowance (Enlisted Members Only)							
02E	\$ 17.70	\$ 723.90	\$ 907.80	\$ 189.30	Army		Navy		Air Force		Marine Corps	
OIE	\$ 13.20	\$ 622.80	\$ 839.40	\$ 221.70	Male	Female	Male	Female	Male	Female	Male	Female
W-5	\$ 25.20	\$ 999.60	\$ 1,092.60	\$ 94.20	370.80	432.00	273.60	280.80	259.50	295.20	273.60	392.40
W-4	\$ 25.20	\$ 887.70	\$ 1,001.40	\$ 115.80	529.20	619.20	392.40	403.20	370.80	421.20	378.00	421.20
W-3	\$ 20.70	\$ 746.40	\$ 918.00	\$ 175.50	0	0	644.60	669.60	0	0	0	0
W-2	\$ 15.90	\$ 662.40	\$ 843.60	\$ 185.10	Civilian Clothing Allowance							
W-1	\$ 13.80	\$ 555.30	\$ 729.90	\$ 179.40	Type of Duty	Initial	Replacement	15 days in 30 days period	30 days in 36 month period			
E-9	\$ 18.60	\$ 729.00	\$ 960.90	\$ 237.00	Permanent	881.34	293.78	0		0		
E-8	\$ 15.30	\$ 669.30	\$ 886.50	\$ 222.00	Temporary	0	0	293.78		587.56		
E-7	\$ 12.00	\$ 571.50	\$ 822.90	\$ 257.10	Personal Money Allowance (Monthly Amount)							
E-6	\$ 9.90	\$ 517.20	\$ 760.20	\$ 248.40	1. While serving as Chairman or Vice Chairman of the JCS, or Army or Air Force CS, CNO, or CMC						\$333.33	
E-5	\$ 8.70	\$ 477.30	\$ 684.00	\$ 211.20	2. Senior Member of the Military Staff Committee of the U.N.						\$225.00	
E-4	\$ 8.10	\$ 414.90	\$ 594.30	\$ 183.00	3. General or Admiral						\$183.33	
E-3	\$ 7.80	\$ 407.10	\$ 552.90	\$ 149.70	4. Lieutenant General Vice Admiral						\$41.67	
E-2	\$ 7.20	\$ 330.60	\$ 527.10	\$ 200.40	5. Senior Enlisted Member of a Military Service						\$166.67	
E-1	\$ 6.90	\$ 295.20	\$ 527.10	\$ 237.00								

For other pays or specific requirements for the pay cited in this table, go to the web at:

<http://www.dtic.mil/comptroller/fmr/07a/index.html>

INCENTIVE AND SPECIAL PAYS

Aviation Career Incentive Pay

Years of Aviation Service

2 or less	Over 2	Over 3	Over 4	Over 6	Over 14	Over 22	Over 23	Over 24	Over 25
125.00	156.00	188.00	206.00	650.00	840.00	585.00	495.00	385.00	250.00

Hazardous Duty Incentive Pay (Crew Member- Non-AWAC)

Pay Grade	Amount	Pay Grade	Amount	Pay Grade	Amount	Pay Grade	Amount	Pay Grade	Amount
O-10	150.00	O-5	250.00	W-5	250.00	E-9	240.00	E-4	165.00
O-9	150.00	O-4	225.00	W-4	250.00	E-8	240.00	E-3	150.00
O-8	150.00	O-3	175.00	W-3	175.00	E-7	240.00	E-2	150.00
O-7	150.00	O-2	150.00	W-2	150.00	E-6	215.00	E-1	150.00
O-6	250.00	O-1	150.00	W-1	150.00	E-5	190.00		

Hazardous Duty Incentive Pay (Non-Crew Member)

ALL GRADES – 150.00

Imminent Danger Pay/Hostile Fire Pay

ALL GRADES – 225.00

Diving Pay

Officers – 240.00 (Max)

Enlisted – 340.00 (Max)

HDIP (Parachute, Flight Deck, Demolition, & Others)

All Grades – 150.00 (Member qualified for HALO pay 225.00).

COMBAT ZONE TAX EXCLUSION

Basic pay for the MCPO of the Navy, CMSgt of the AF, Sergeant Major of the Army or Marine Corps, basic pay is \$6,642.60. Combat Zone Tax Exclusion for O-1 and above is based on this basic pay rate plus HFP/IDP (\$225).

For other pays or specific requirements for the pays cited in this table, go to the web at: <http://www.dtic.mil/comptroller/fmr/07a/index.html>

Submarine Duty Incentive Pay (Effective October 1, 2004)

Cumulative Years of Service

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 14	Over 16	Over 18	Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8
O-6	595.00									835.00	E-9	425.00					
O-5	595.00							790.00	835.00		E-8	415.00					
O-4	365.00			525.00	595.00	705.00		790.00			E-7	405.00					
O-3	355.00			510.00	595.00	705.00					E-6	155.00	170.00	175.00	300.00	325.00	375.00
O-2	305.00						425.00				E-5	140.00	155.00		250.00	275.00	
O-1	230.00						425.00				E-4	80.00	95.00	100.00	245.00		
W-5	285.00	375.00	425.00								E-3	80.00	90.00	95.00		90.00	
W-4	285.00	375.00	425.00								E-2	75.00	90.00				
W-3	305.00							425.00			E-1	75.00					
W-2	230.00							425.00									
W-1	285.00	375.00	425.00														

Submarine Duty Incentive Pay for O-7 through O-10 is \$355

DRILL PAY—EFFECTIVE JANUARY 1, 2007¹

Cumulative Years of Service

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 24	Over 26
O-7	7,023.90	7,350.00	7,501.20	7,621.20	7,838.40	8,052.90	8,301.30	8,548.80	8,797.20	9,577.20	10,236.00	10,236.00	10,236.00	10,236.00	10,287.90
1 drill	234.13	245.00	250.04	254.04	261.28	268.43	276.71	284.96	293.24	319.24	341.20	341.20	341.20	341.20	342.93
4 drills	936.52	980.00	1,000.16	1,016.16	1,045.12	1,073.72	1,106.84	1,139.84	1,172.96	1,276.96	1,364.80	1,364.80	1,364.80	1,364.80	1,371.72
O-6	5,206.20	5,719.20	6,094.50	6,094.50	6,117.60	6,380.10	6,414.60	6,414.60	6,779.10	7,423.80	7,802.10	8,180.10	8,395.20	8,613.00	9,035.70
1 drill	173.54	190.64	203.15	203.15	203.92	212.67	213.82	213.82	225.97	247.46	260.07	272.67	279.84	287.10	301.19
4 drills	694.16	762.56	812.60	812.60	815.68	850.68	855.28	855.28	903.88	989.84	1,040.28	1,090.68	1,119.36	1,148.40	1,204.76
O-5	4,339.80	4,888.80	5,227.50	5,291.10	5,502.00	5,628.60	5,906.40	6,110.10	6,373.20	6,776.40	6,968.10	7,158.00	7,373.10	7,373.10	7,373.10
1 drill	144.66	162.96	174.25	176.37	183.40	187.62	196.88	203.67	212.44	225.88	232.27	238.60	245.77	245.77	245.77
4 drills	578.64	651.84	697.00	705.48	733.60	750.48	787.52	814.68	849.76	903.52	929.08	954.40	983.08	983.08	983.08
O-4	3,744.60	4,334.70	4,623.90	4,688.40	4,956.90	5,244.60	5,602.80	5,882.40	6,076.20	6,187.50	6,252.30	6,252.30	6,252.30	6,252.30	6,252.30
1 drill	124.82	144.49	154.13	156.28	165.23	174.82	186.76	196.08	202.54	206.25	208.41	208.41	208.41	208.41	208.41
4 drills	499.28	577.96	616.52	625.12	660.92	699.28	747.04	784.32	810.16	825.00	833.64	833.64	833.64	833.64	833.64
O-3	3,292.20	3,732.30	4,028.40	4,392.00	4,602.00	4,833.00	4,982.70	5,228.40	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90	5,355.90
1 drill	109.74	124.41	134.28	146.40	153.40	161.10	166.09	174.28	178.53	178.53	178.53	178.53	178.53	178.53	178.53
4 drills	438.96	497.64	537.12	585.60	613.60	644.40	664.36	697.12	714.12	714.12	714.12	714.12	714.12	714.12	714.12
O-2	2,844.30	3,239.70	3,731.40	3,857.40	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60	3,936.60
1 drill	94.81	107.99	124.38	128.58	131.22	131.22	131.22	131.22	131.22	131.22	131.22	131.22	131.22	131.22	131.22
4 drills	379.24	431.96	497.52	514.32	524.88	524.88	524.88	524.88	524.88	524.88	524.88	524.88	524.88	524.88	524.88
O-1	2,469.30	2,569.80	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50	3,106.50
1 drill	82.31	85.66	103.55	103.55	103.55	103.55	103.55	103.55	103.55	103.55	103.55	103.55	103.55	103.55	103.55
4 drills	329.24	342.64	414.20	414.20	414.20	414.20	414.20	414.20	414.20	414.20	414.20	414.20	414.20	414.20	414.20
O-3E				4,392.00	4,602.00	4,833.00	4,982.70	5,228.40	5,435.40	5,554.20	5,715.90				
1 drill				146.40	153.40	161.10	166.09	174.28	181.18	185.14	190.53				
4 drills				585.60	613.60	644.40	664.36	697.12	724.72	740.56	762.12				
O-2E				3,857.40	3,936.60	4,062.00	4,273.50	4,437.00	4,558.80	4,558.80	4,558.80				
1 drill				128.58	131.22	135.40	142.45	147.90	151.96	151.96	151.96				
4 drills				514.32	524.88	541.60	569.80	591.60	607.84	607.84	607.84				
O-1E				3,106.50	3,317.70	3,440.10	3,565.50	3,688.80	3,857.40	3,857.40	3,857.40				
1 drill				103.55	110.59	114.67	118.85	122.96	128.58	128.58	128.58				
4 drills				414.20	442.36	458.68	475.40	491.84	514.32	514.32	514.32				

SPECIAL PAYS FOR HEALTH PROFESSIONAL OFFICERS (note)

Variable Special Pay (Medical Officers)

Pay Grade	Under 3	3 But Less Than 6	6 But Less Than 8	8 But Less Than 10	10 But Less Than 12	12 But Less Than 14	14 But Less Than 18	18 But Less Than 22	22 and Over
Intern	100.00								
Thru O-6		416.67	1,000.00	958.33	916.67	833.33	750.00	666.67	583.33
Above O-6	583.33	<i>For specific requirements for the pay cited in this table, go to the web at: http://www.dtic.mil/comptroller/fmr/07a/index.html</i>							

Variable Special Pay (VSP) (Dental Officers)

Pay Grade	Under 3	3 But Less Than 6	6 But Less Than 8	8 But Less Than 12	12 But Less Than 14	14 But Less Than 18	18 & Over
Intern	250.00						
Thru O-6 (583.33	583.33	1,000.00	833.33	750.00	666.67
Above O-6	583.33						

Board Certified Pay Special Pay (Medical and Dental Officers)

Additional Special Pay (ASP) (Dental Officers)

Pay Grade	Under 10	10 But Less Than 12	12 But Less Than 14	14 But Less Than 18	18 & Over	Pay Grade	Under 3	3 But Less Than 10	10 & Over
All Grades	208.33	291.67	333.33	416.67	500.00	All Grades	4,000.00	6,000.00	15,000.00

Incentive Special Pay (Medical Officers)

Specialty	Annual Amt	Specialty	Annual Amt	Specialty	Annual Amt	Specialty	Annual Amt
Anesthesiology	\$36,000.00	Internal medicine	14,000.00	Otolaryngology	30,000.00	Subspecialty Category I	36,000.00
Dermatology	18,000.00	Neurology	14,000.00	Pathology	16,000.00	Subspecialty Category II	28,000.00
Emergency medicine	26,000.00	Neurosurgery	36,000.00	Pediatrics	12,000.00	Subspecialty Category III	23,000.00
Family practice	13,000.00	OB/GYN	31,000.00	Prev/Occ/Phys Med & Aero Med	13,000.00	Subspecialty Category IV	14,000.00
Gastroenterology	26,000.00	Ophthalmology	28,000.00	Psychiatry	15,000.00	Urology	28,000.00
General surgery	29,000.00	Orthopedics	36,000.00	Radiology	36,000.00		

Multiyear Special Pay (Medical Officers)

	Level 1	Level 2	Level 3	Level 4
4 Year Agreement	14,000.00	10,000.00	8,000.00	0
3 Year Agreement	13,000.00	9,000.00	7,000.00	0
2 Year Agreement	12,000.00	8,000.00	6,000.00	0

<p>District Court, El Paso County, State of Colorado Court: 270 S. Tejon St, Colo. Spgs., CO 80903 Mail: P.O. Box 2980, Colo. Spgs., CO 80901-2980</p> <hr/> <p>In re: the Marriage of:</p> <p>Petitioner:</p> <p>And</p> <p>Respondent/Co-Petitioner:</p> <hr/> <p>Attorney for the Petitioner:</p> <p>Carl O. Graham, #30418 Black & Graham, LLC 128 S. Tejon St, Ste 410 Colorado Springs, CO 80903 Tel: (719) 328-1616 Fax: (719) 630-8495 E-mail: carl@blackgraham.com Web: www.blackgraham.com</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> <hr/> <p>Case No:</p>
<p>MOTION FOR STAY OF PROCEEDINGS PURSUANT TO SERVICEMEMBERS' CIVIL RELIEF ACT</p>	

THE PETITIONER, by and through his undersigned attorney, hereby requests a stay of all proceedings in the above-captioned case, and as grounds, states the following:

1. A Permanent Orders hearing is currently scheduled for *****.
2. The Respondent is a ***** on active duty with the U.S. Army. On or about *****, he was deployed to Iraq in support of Operation Enduring Freedom (Deployment Order attached as Attachment 1). The deployment is open-ended, with no termination date yet set, but is expected to last about a year. Counsel for the Respondent will advise the Petitioner and the Court upon learning of a return date.
3. This deployment materially affects the Respondent's ability to participate in the proceedings in that while he is deployed, he is prohibited from taking leave to appear, and his ability to communicate with his attorney is severely curtailed. A letter from his commander is attached as Attachment 2.
4. The pertinent portions of the Servicemembers Civil Relief Act (formerly the Soldiers' and Sailors' Civil Relief Act), 50 U.S. Code App. § 202, read:
 - (a) APPLICABILITY OF SECTION- This section applies to any civil action or proceeding in which the defendant at the time of filing an application under this section--
 - (1) is in military service or is within 90 days after termination of or release from military service; and
 - (2) has received notice of the action or proceeding.

(b) STAY OF PROCEEDINGS-

(1) AUTHORITY FOR STAY- At any stage before final judgment in a civil action or proceeding in which a servicemember described in subsection (a) is a party, the court may on its own motion and shall, upon application by the servicemember, stay the action for a period of not less than 90 days, if the conditions in paragraph (2) are met.

(2) CONDITIONS FOR STAY- An application for a stay under paragraph (1) shall include the following:

(A) A letter or other communication setting forth facts stating the manner in which current military duty requirements materially affect the servicemember's ability to appear and stating a date when the servicemember will be available to appear.

(B) A letter or other communication from the servicemember's commanding officer stating that the servicemember's current military duty prevents appearance and that military leave is not authorized for the servicemember at the time of the letter.

5. The Respondent has met the SCRA requirements for a mandatory stay: he is on active duty, he submitted this written motion which sets out how his military duties materially affect his ability to appear, and he has attached the required letter from his commanding officer.

6. The undersigned has discussed the issue with counsel for the Petitioner, who indicated he would not oppose a stay.

WHEREFORE, the moving party requests that the ***** hearing be vacated, and that all further proceedings in this case stayed until such time that has redeployed back to the United States and his ability to participate in the case is not materially affected.