

DISCOVERY NEW REQUEST PACKET



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Trusted experts since 1985

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This document is meant to be a guide to help attorneys know what they must provide to retain our services. As always, we welcome phone calls. We are glad to discuss the specifics of your case and what information we would need from you to get started.

Contents of this packet:

- Discovery considerations;
- Checklist detailing what we need and how to submit it;
- Request form; and
- Explanation of our requesting attorney policy.

Retention Overview

To retain our services, you must provide the information detailed in the checklist. Once we receive the request form and the retainer, we will send the letters as directed. If there are any questions, we will call you to discuss the case.

Applicable Plans and Services

This packet applies to the following plan types:

- ERISA-governed defined benefit and defined contribution plans;
- IRAs;
- Individual annuities; and
- Governmental 457(b) and 403(b) plans.

This service should be used for initial negotiations, QDRO drafting, IRA drafting, and governmental state-level plans outside the state of Ohio.

Only attorneys may retain our services. Although our company employs attorneys, we do not represent clients or perform any services for non-lawyers. If you are a party in a divorce and wish to use our services, please have your attorney contact our office.

DISCOVERY CONSIDERATIONS

Timing

The best time to conduct full discovery is before the divorce is finalized. A court will typically not amend or revise a final divorce decree or settlement agreement. However, many attorneys wait until after the final decree to conduct thorough discovery of retirement assets. You have more leverage before the final decree to force the opposing party (or a plan sponsor) to comply with discovery requests.

If you discover retirement assets or asset features after the divorce is finalized, the settlement agreement may not accomplish what you and your client intended. At the very least, you and your client will have to spend time and money to address insufficient settlement agreement language.

Recommendation for Obtaining Plan Information

Not all retirement assets are the same. Many retirement assets have unique and complicated provisions regarding benefit accrual, vesting, distribution, division, etc. You need more than a plan name and account balance to fully understand the amount and nature of a retirement asset. We recommend that you contact each plan/IRA/company with a specific list of questions to in order to get complete information.

The following, listed in order, are options for obtaining discovery:

1. **Call us today to request a copy of our Discovery Toolkit** - It contains (1) detailed step-by-step process to discover and divide retirement assets, (2) sample interrogatories to ask the opposing party, (3) sample limited authorization for the participant to sign, and (4) sample discovery letters for the retirement asset's sponsor or custodian. The toolkit can be used in the following ways:
 - a. The participant can take the sample letter to his employer or financial advisor and provide the information directly. This will be the quickest method.
 - b. You can send the letter along with the signed limited authorization to each plan.
 - c. You can use the sample letter to attach to a subpoena.
2. **Engage QDRO Group to perform discovery** - Please see the checklist on the following page to know what is required. We list this as the final option because it can take anywhere from 30-60 days for us to receive a response, if we get one at all. We do not guarantee a response, especially since many plans/IRAs/companies will only provide the information to either the participant or the attorney as concern about identify theft increases, and we are a third-party to the divorce.

ATTORNEY CHECKLIST FOR DISCOVERY

1 To retain our discovery services, you must provide the following:

- Request Form: The Discovery Request Form can be found on the next page of this packet or at our [website](#).
- Plan Information: We prefer to have a current Account Statement (for Defined Contribution Plans)/Accrued Benefit Statement (for Defined Benefit Plans), if available. At minimum we need the name of the employer or custodian and a mailing address.
- Limited Authorization: We need a notarized limited authorization signed by the Participant. If we are contacting Vanguard, we must have the original version.
 - For IRAs, use this [limited authorization](#).
 - For all other plans listed on the front page of this packet, use this [limited authorization](#).
- Prepayment: We require the full fee before we provide the discovery responses, which is \$100/plan. You may send a check by mail or [pay online](#). A minimum of \$100 is required for us to be considered retained.

Please note, if we do not receive all of the four items listed above (including a minimum \$200 prepayment) within 45 days, we will consider ourselves not to have been retained and will return all original documents to you.

2 Once you gather the information above, submit the request.

Email: admin@qdrogroup.com

Mail: 780 East Smith Road, Medina, OH 44256

3 Once retained, we will advise you if we require any further documentation. If not, we will mail or email the letters to the appropriate plans/companies.

Please note that it takes approximately 30-60 days for a response.
We do not guarantee a response or the accuracy of the information provided by the Plan.
Once we receive the information, it will be emailed to you.

DISCOVERY SERVICE REQUEST FORM

A standard request is \$100/plan and includes: (1) A letter sent to the plan/company named below, (2) two plan follow-up letters as needed, and (3) a 20-minute phone call to discuss the discovery response.

Please note that we do not guarantee that the plan will respond or that the information received is completely accurate. Also, in some instances the plan will only send a response to either you or the parties. If something is received, please forward to our office right away.

Send a copy of the discovery letter(s) and response(s) to Opposing Counsel.

Requesting Attorney Information

Represents: Plan Participant Alternate Payee

- Name _____
- Address, City, State, Zip _____
- Phone _____
- Email _____
- Assistant Email _____

Opposing Counsel Information

- Name _____
- Address, City, State, Zip _____
- Phone _____
- Email _____
- Assistant Email _____

Duration of the Marriage

- Date of Marriage _____ Date of Divorce _____

Alternate Payee Information

- Name _____ Gender: ___ Male ___ Female
- Address, City, State, Zip _____
- SSN _____ DOB _____
- Role ___ Plaintiff ___ Defendant

Plan Participant Information

- Name _____ Gender: ___ Male ___ Female
- Address, City, State, Zip _____
- SSN _____ DOB _____
- Role ___ Plaintiff ___ Defendant

Participant Plan Information - Qualified Plans

- Employer/Company Name _____ Plan Name _____
- Employer Address, City, State, Zip _____
- Phone _____ Contact Person _____
- Recordkeeper _____
- Employment Status: Active Terminated on _____ Retired on _____
- In payout status? ___ Yes ___ No Hire Date _____

Participant Plan Information - IRAs and Annuities

- IRA/Annuity Custodian _____
- Address, City, State, Zip _____
- Financial Advisor Name _____ Phone _____
- Date Annuity/IRA account opened _____
- In payout status? Yes No

If you are requesting discovery for more than one plan, please complete the Plan Information section on a separate form and submit that at the same time. Alternatively, you can provide the additional plan details in a cover letter.

RETENTION/REQUESTING ATTORNEY POLICY

We can only be retained by attorneys; we do not work directly with divorcing parties or other lay people. This policy sets forth the general framework that we use when working with attorneys.

General

- When we are working on a matter (e.g., a valuation of a retirement benefit, drafting an order to divide a retirement benefit, legal services, etc.), we only consider one attorney to be our client. We refer to our client as the “Requesting Attorney.” As you will see, the Requesting Attorney is instrumental in our process. As such, if you are the Requesting Attorney, you will need to be engaged and responsive throughout the process.
- We only have a single Requesting Attorney because it simplifies the process and it helps to avoid conflicts of interest on our end. Both attorneys can, of course, cooperate on the matter. However, we will only treat a single attorney as the Requesting Attorney.
- Unless instructed otherwise, the Requesting Attorney will be:
 - Our main contact person regarding the matter;
 - The party we will take direction from;
 - The party we will contact for any necessary fees or information;
 - The party who will receive our work product; and
 - The only party that we will provide full details of our services.
- Information that we will provide to interested parties who are not the Requesting Attorney (i.e., the plan participant, the alternate payee, and/or opposing counsel):
 - A general outline of the service we are providing and how that service fits into the divorce case.
 - A general update of the matter (e.g., we have received the necessary documents and we are moving forward, we need more information from the plan, the order will be finalized soon, etc.).
 - Unless explicitly told otherwise by the Requesting Attorney, we will **NOT** provide interested parties with specific dates that we received information, the specific dates that we completed any work, or any discussions that have occurred with the Requesting Attorney.
- Documents we will provide to the attorney opposed to the Requesting Attorney (“Opposing Counsel”):
 - Publicly available documents such as executed court orders;
 - A copy of our draft order or some other document we produced—if we are aware Opposing Counsel has already received a copy;
 - Any document that the Requesting Attorney has expressly authorized us to provide to Opposing Counsel, including our final work product;
 - Except as listed above, no other documents.

Retention

- We consider the first attorney who sends us the minimum prepayment for retention (e.g., \$200 for a division order or \$400 for legal services) **AND** submits a completed request form to be the Requesting Attorney for the service sought.
- We may have more than one Requesting Attorney for a single divorce case. For example, the first spouse’s attorney may hire us to draft an order dividing that spouse’s 401(k) benefit. In that same case, the second spouse’s attorney may hire our services to draft an order dividing that spouse’s pension benefit. In this example, although the orders are being drafted for the same divorce case, each attorney is the “Requesting Attorney” for the order being drafted for their respective client’s retirement benefit.
- For our services, the limitations on Requesting Attorney is as follow:

- Drafting a division order—one Requesting Attorney per **order**.
- Valuation Services—one Requesting Attorney per **spouse**.
- Legal Service—one Requesting Attorney per **case**.

When the Original Requesting Attorney Leaves the Case

- If we received a request to do work by one Requesting Attorney but we close the file without completing any work, we will treat any subsequent request as a new request (i.e., we will not use any information from the original request and the attorney for any party can be the new Requesting Attorney).
- If we completed some work on a case and the Requesting Attorney leaves the divorce case but his/her client has retained a new attorney, the new attorney can take over as the Requesting Attorney for our services.
 - We will need some sort of proof that the new attorney is representing the client of the original Requesting Attorney (e.g., a copy of the substitution of counsel/notice of appearance).
 - In this situation, we will provide the new Requesting Attorney with any reports, orders, or separation agreement language that we have completed. However, without express permission from the former Requesting Attorney, we will not disclose any communications (oral or written) we had with the original Requesting Attorney.
- If the original Requesting Attorney leaves the case and the Opposing Counsel wants to become the Requesting Attorney, we can only make that change if: 1) the original Requesting Attorney gives express consent to the Opposing Counsel becoming the new Requesting Attorney; or 2) the original Requesting Attorney informs us, in writing, that he/she no longer represents the party from the case in question and that party/party's new attorney informs us it is okay to work with Opposing Counsel.
 - Again, we will provide the new Requesting Attorney (the former Opposing Counsel) with any reports, orders, or separation agreement language that we have completed. However, without express permission from the former Requesting Attorney, we will not disclose any communications (oral or written) we had with the original Requesting Attorney.

Completed Work

- If Opposing Counsel asks us questions on any work that we have completed (e.g., orders, valuation reports, etc.), we will explain what the language in the document means and answer general questions. However, unless we have the express permission of the Requesting Attorney, we will not explain the decisions made or communications that led to the use of the language.
- If the Requesting Attorney asks for any changes to be made to an order or other documents, we will make the changes—depending on the changes, there may be an additional fee.
- If the Opposing Counsel requests changes to an order or other document we prepared, we will only make the changes if said changes are required by the court and/or the applicable retirement plan. After we make the changes, unless instructed otherwise, we will send the amended order or other document to both the Requesting Attorney and Opposing Counsel.
- If we need to use numbers from one of our evaluation reports to effectuate the parties' intent in a division order but the Requesting Attorney for the report and the order are different, we must have permission to use the numbers.
 - We will make an exception if the numbers have been incorporated in the final decree/separation agreement.