

PASSIVE GROWTH ANALYSIS NEW REQUEST PACKET



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Trusted experts since 1985

PASSIVE GROWTH ANALYSIS NEW REQUEST PACKET

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:

- Checklist detailing what we need and how to submit it;
- Instructions for obtaining account statements;
- Request form; and
- Explanation of our requesting attorney policy.

Retention Overview

To retain our services, you must provide the information detailed in the checklist. We will complete the report as you instruct, and we will take instruction only from you as “Requesting Attorney.” In the event that any details are not provided on the request form, we will require that you provide instruction prior to preparing our report, or in certain circumstances, we will use our default approaches.

Once the report is prepared, we will respond to and discuss the meaning and impact of the provisions with opposing counsel only after verifying that they have received a copy of our report. We will not make any changes or updates to the report without receiving instruction from you to do so.

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.

OBTAINING ACCOUNT STATEMENTS

When there is a portion of the account that is being claimed as separate property, we suggest that the participant contact their plan administrator or record keeper to request all quarterly or annual account statements, spanning the date of marriage through the present day. If there is no pre-marital property but a post-divorce claim, it is only necessary to have statements from the date of divorce forward. Each individual account statement should cover a period of no more than 12 months. Please note that account transcripts, ledgers or transaction histories do not provide the necessary detail to prepare an analysis.

If you provide an authorization form, we are able to send a discovery letter to the plan administrator or record keeper to attempt to obtain the account statements, but please recognize that it can take many weeks for us to receive a response, if at all. We find that plan administrators and record keepers are more willing to provide information directly to a participant.

Note that record keepers can only provide information for the period of time for which they have served in that role. Typically, if they are not the current keeper, they will not provide any information. For plans that have changed recordkeepers, we have to rely on the participant to provide information from their records or try to use alternate methods for some or all of the calculation. If this is the case, our report cannot be characterized as a true and complete tracing.

WHAT HAPPENS WHEN ACCOUNT STATEMENTS ARE UNAVAILABLE?

In order to complete a full tracing in a Passive Growth Analysis, we require all quarterly or annual account statements from the date of marriage through the present day. It is not always possible to obtain statements. The longer the period of the marriage, the more difficult it is to obtain all statements. The date of a change in recordkeeper is usually as far back as we can go with an authorization. In some cases, we may be able to offer methods for estimating missing information.

In the event that the necessary account statements are not available, we will require instruction before proceeding. Sometimes we are able to make reasonable assumptions when there is a small gap in statements. However, when significant information is missing, a tracing cannot be completed. Instead, we can provide possible alternatives from which to choose, but there is a chance that these may be rejected by the court.

ATTORNEY CHECKLIST FOR PASSIVE GROWTH ANALYSIS

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

Request Form: The Passive Growth Analysis Request Form can be found on the next page of this packet or at our [website](#). If you would like to complete this request online rather than using this downloaded form, visit our [online portal](#).

- ☐ **Limited Authorization/Release:** We must have an authorization form signed by the plan participant. Please visit our [website](#) for the appropriate release. (If all quarterly or annual account statements are provided, a Limited Authorization form is not necessary.)
- ☐ **Prepayment:** We require the full fee before we provide the report. You may send a check by mail or pay [online](#). The retainer for a tracing is \$800, and depending on the complexity, there may be additional fees. We will seek your approval and prepayment before proceeding.
- ☐ **Account Background:**
 - If the funds in the account have been moved multiple times throughout the duration of marriage, provide detail on how the funds moved from one account to the next.
 - If there was a rollover into the plan, provide the estimated time frame that the rollover occurred and whether the rollover should be treated as marital or non-marital. If the rollover origination plan had money contributed to it during the marriage, it may require its own separate passive growth analysis to determine the marital portion of the rollover.

Please note, if we do not receive the first three items listed above 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: 377B Lear Rd, #286 Avon Lake, OH 44012

3 We may also require additional payments or information. After reviewing your submission, we will advise you if we require anything further. In the event that you have any of the following items, please provide them with your initial submission. This may expedite the process.

- ALL quarterly/annual statements for the duration of the marriage
- Summary plan description.

Once we receive all the information we need, our turnaround time is 5-7 business days.

The final report will be mailed to your office.

If you need the report sooner, we offer expedited services for additional fees.

PASSIVE GROWTH ANALYSIS REQUEST FORM

A standard request is \$800 and includes: (1) discovery, (2) statement review, (3) and a passive growth report.

A Passive Growth Analysis involves tracing (or otherwise estimating) the growth of separate property which existed prior to the marriage and/or after the last date for acquisition of marital assets under a defined contribution plan. This type of analysis traces the gains/losses on the marital and non-marital portions of the account based on actual account statements, and considering the marital and non-marital allocation for each contribution or disbursement during the studied period.

If the analysis is deemed to be more complex than normal, additional fees may apply. We will seek your approval and prepayment before proceeding.

☐ Send a copy of the final work product to Opposing Counsel.

Requesting Attorney Information

Represents: Plan Participant Spouse

- 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 _____ Last Date for Acquisition of Marital Assets* _____

The last date for acquisition of marital assets is the date that we use for the end of the marriage for purposes of determining the marital portion of the plan. If you do not provide a date, we will use our date of evaluation. Multiple dates and updates require additional fees.

Plan Participant Information

- Name *(please specify if last name has changed recently)* _____
- Gender: ☐ Male ☐ Female
- SSN _____ DOB _____
- Hire Date _____ Date of Termination (if applicable) _____ Hearing Date _____
- Employment Status: ☐ Active ☐ Terminated Vested ☐ Retired on _____
- Receiving Distributions ☐ Yes ☐ No

Former Spouse Information

- Name *(please specify if last name has changed recently)* _____
- DOB _____

Plan Information

- Employer/Company Name _____ Plan Name _____
- Current Recordkeeper _____
- Employer Address, City, State, Zip _____
- Phone _____ Contact Person _____
- Previous Recordkeepers _____

If you are requesting evaluations 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.

Assumptions

How should we treat Loans and Withdrawals taken from the account during the marriage?

☐ Marital *(default)* ☐ Non-Marital ☐ A pro-rata share (please specify)

Instructions for a specific loan or withdrawal: _____

Through what date should we trace the marital portion of the account?

☐ Most Recent Statement *(default)* ☐ Last Date of Acquisition of Marital Assets

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.