

JANET HEROLD  
Regional Solicitor  
BRUCE L. BROWN  
Associate Regional Solicitor  
DONNA F. BOND  
Trial Attorney  
Office of the Solicitor  
UNITED STATES DEPARTMENT OF LABOR  
300 Fifth Avenue, Suite 1120  
Seattle, WA 98104  
Telephone: (206) 757-6751  
Facsimile: (206) 757-6761  
bond.donna@dol.gov

Attorneys for the Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

SETH D. HARRIS<sup>1</sup>, ACTING SECRETARY  
OF LABOR, UNITED STATES  
DEPARTMENT OF LABOR,  
Plaintiff,  
v.

ASRC ENERGY SERVICES ALASKA, INC.  
Defendant.

CIVIL ACTION

CASE NO. 3:11-cv-00251-HRH

**Consent Judgment**

Plaintiff has filed her Complaint in this Court and Defendant has appeared and, without admitting the truth of any of the allegations contained in the Complaint and without admitting liability under the Family Medical Leave Act (“FMLA”) or any other law, has agreed to the entry of this Judgment in settlement of this matter. Defendant’s

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<sup>1</sup> Seth D. Harris was appointed as Acting Secretary of Labor on January 24, 2013. Pursuant to Fed. R. Civ. P. 25(d) the caption has been changed to reflect the appointment.

position is that it acted in good faith at all times in regard to Complainant and his rights under the FMLA based upon a 2000 decision of the United States District Court for the District of Alaska in *Button v. Alaska Petroleum Contractors, Inc.*, Case No. A99-0084 CV (JWS), which Defendant litigated under its prior name, Alaska Petroleum Contractors, Inc., and that Plaintiff's claim in this case has become moot as a result of an intervening modification in Defendant's FMLA policy. It is, therefore, upon motion and direction of the Plaintiff and Defendant that this Consent Judgment be entered as follows:

### **I. Order and Decree**

**IT IS ORDERED, ADJUDGED AND DECREED** that Defendant, its officers, agents, servants, employees, and all persons acting or claiming to act in its behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of the Family Medical Leave Act of 1991, as amended, (29 U.S.C. §2601 et seq.), ("FMLA") and its Regulations published at 29 C.F.R. Part 825. The Defendant agrees that it does not currently and will not, henceforth, include rest and relaxation periods in calculating the twelve week entitlement to leave under the FMLA for rotational workers, except to the extent authorized or permitted in the future by a federal court decision or a change in the FMLA or regulations issued under the FMLA.

**IT IS FURTHER ORDERED** that the Plaintiff recover from Defendant the gross amount of \$43,000 in damages. Payment shall be made to the Complainant, by regular payroll check made payable to "**Rick Quintana**" and shall be mailed to:

Rick Quintana

*At the address that Plaintiff provided to Defendant on April 3, 2013*

The check shall be accompanied by a letter identifying the case name as *Harris v. ASRC Energy Services Alaska, Inc.*, and shall include the employer's tax identification number. The check shall be in the net amount accompanied by a list of the legal deductions made from the gross amount due. Defendant will be responsible for computing and paying all relevant employer payroll taxes, including any applicable federal, state or local taxes. Payment shall be made in full within 30 days of the entry of this Judgment.

Plaintiff shall also send a copy of the check and all enclosures sent to Mr.

Quintana to:

U.S. Department of Labor  
Wage Hour Division  
300 Fifth Avenue, Suite 1125  
Seattle, WA 98104

If after a reasonable attempt to do so, Defendant is unable to locate Complainant Rick Quintana to complete the described payment, Defendant may send a check made out to **"Rick Quintana or the U.S. Department of Labor"** to:

U.S. Department of Labor  
Wage Hour Division  
300 Fifth Avenue, Suite 1125  
Seattle, WA 98104

Defendant must include all of the original enclosures that it attempted to send to the Complainant. In the event that Defendant is unable to locate the Complainant and complete the payment, Plaintiff shall distribute the monies paid by Defendant under this Judgment to the Complainant or his estate if that is necessary. Any money not so paid within three (3) years because of inability to locate said employee or because of his refusal to accept said proceeds shall be deposited forthwith with the Treasurer of the United States pursuant to 28. U.S.C. § 2041.

## II. Release of Claims

On behalf of the U.S. Department of Labor, the Secretary hereby releases Defendant from any and all claims, demands, damages, costs, and causes of action

that the Secretary could bring under the FMLA related to the termination or reinstatement of Rick Quintana, including those that are known and those that are unknown, arising out of (1) any act or omission that occurred or which could be alleged to have occurred prior to the Secretary filing the Complaint in this matter; or (2) any act or omission that was known to the U.S. Department of Labor prior to the date of execution of this consent judgment. Nothing in this consent judgment shall preclude Mr. Quintana from filing a complaint with the U.S. Department of Labor for any matter arising out of an act or omission that occurs after the date of execution of this consent judgment.

**III. Judgment of No Effect on Rights of Employees Not Named  
or Defenses Available to Defendant**

IT IS FURTHER ORDERED that this Judgment neither affects nor extinguishes any rights of any of Defendant's employees or former employees not specifically named in the Complaint and this Judgment or any defenses available to Defendant.

**IV. Parties to Bear Own Expenses**

IT IS FURTHER ORDERED that each party shall bear its own fees and other expenses incurred in connection with any stage of this proceeding, and shall waive all rights to relief in this case under the Equal Access to Justice Act of 1980, as amended (5 U.S.C §594, 28 U.S.C. §2412 et seq.).

Dated: April 3, 2013

RESPECTFULLY SUBMITTED,

Floyd G. Short  
Susman Godfrey, L.L.P.

By: s/ Floyd G. Short  
Floyd G. Short  
Attorney for the Defendant

Susman Godfrey, L.L.P.  
Suite 3800  
1201 Third Avenue  
Seattle, WA 98101-3000  
Office (206) 373-7381  
Fax (206) 516-3883  
[fshort@susmangodfrey.com](mailto:fshort@susmangodfrey.com)

M. Patricia Smith  
Solicitor of Labor

Janet Herold  
Regional Solicitor

Bruce L. Brown  
Associate Regional Solicitor

By: s/ Donna F. Bond  
Donna F. Bond, WSBA No. 36177  
Attorney for the Plaintiff  
U.S. DEPARTMENT OF LABOR  
300 Fifth Ave., Suite 1120  
Seattle, WA 98104  
Telephone: (206) 757-6751  
Fax: (206) 757-6761  
E-mail: [bond.donna@dol.gov](mailto:bond.donna@dol.gov)