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The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

CRYSTAL AMMONS,

Plaintiff,

v.

STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES; NORM
WEBSTER, individually and in his
official capacity acting under color of
state law; and MARY LAFOND,
individually and in her official capacity
acting under color of state law,

Defendants.

NO. C08 5548 RBL

STIPULATED PETITION AND
ORDER FOR ISSUANCE OF
SUBPOENA TO TAKE THE
DEPOSITION OF A FEDERAL
EMPLOYEE

I. STIPULATION

Pursuant to Fed. R. Civ. P. 29 and 30, Defendants State of Washington, Department of Social and Health Services, Norm Webster and Mary LaFond, by and through their attorneys of record, and Plaintiff Crystal Ammons, by and through her attorneys of record, and hereby petition the Court for the issuance of a subpoena for the deposition of Mary C. Rutherford. The basis for this Petition is as follows:

- 1 1. Mary C. Rutherford may have knowledge relevant to the above-captioned
2 lawsuit. The parties have agreed to schedule Ms. Rutherford's deposition for
3 9:00 a.m. on July 21, 2009, at the Office of the Attorney General in Tacoma,
4 Washington.
- 5 2. Ms. Rutherford is an employee of the United States, Department of the Army,
6 stationed at Madigan Army Medical Center. Pursuant to 32 C.F.R. 97.6(c),
7 516.35 and 516.40, the Army must authorize the appearance of its personnel for
8 testimony in private litigation and cannot do so unless the subpoena for said
9 testimony is signed by a judge or court of competent jurisdiction. *See, e.g., Doe*
10 *v. DiGenova*, 779 F.2d 74 (D.C. Cir. 1985).
- 11 3. Ms. Rutherford's testimony is thus not available for compulsory process except
12 by issuance of a subpoena issued by a judge or court of competent jurisdiction.
- 13 4. Ms. Rutherford is willing to appear for her deposition on the date and time
14 noted above provided that the Court issues the subpoena requested herein.
- 15 5. The parties thus respectfully request that the Honorable Ronald B. Leighton
16 execute a subpoena for the deposition of Ms. Rutherford at 9:00 a.m. on July 21,
17 2009, at the Office of the Attorney General in Tacoma, Washington. An
18 unsigned copy of the requested subpoena is attached hereto as **Exhibit A**.
- 19 6. Defendants will serve Ms. Rutherford with a signed copy of the subpoena upon
20 receipt.

21 DATED this 10th day of July, 2009.

22 ROBERT M. MCKENNA
23 Attorney General

24 /s/Ian M. Bauer
25 PATRICIA C. FETTERLY, WSBA No. 8425
26 IAN M. BAUER, WSBA No. 35563
Assistant Attorneys General
Attorneys for Defendants

HAGENS BERMAN SOBOL SHAPIRO LLP

/s/David P. Moody
DAVID P. MOODY, WSBA No. 22853
ANTHONY D. SHAPIRO, WSBA No. 12824
MARTIN D. MCLEAN, WSBA No. 33269
Attorneys for Plaintiff

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3 **II. ORDER**

4 Based upon the foregoing Stipulation, it is so Ordered.

5 DATED this 13th day of July, 2009.

6 
7 RONALD B. LEIGHTON
8 UNITED STATES DISTRICT JUDGE

9 Presented by:

10 ROBERT M. MCKENNA
11 Attorney General

12 /s/Ian M. Bauer
13 PATRICIA C. FETTERLY, WSBA No. 8425
14 IAN M. BAUER, WSBA No. 35563
15 Assistant Attorneys General
16 Attorneys for Defendants

17 Approved for Entry:

18 HAGENS BERMAN SOBOL SHAPIRO LLP

19 /s/David P. Moody
20 DAVID P. MOODY, WSBA No. 22853
21 ANTHONY D. SHAPIRO, WSBA No. 12824
22 MARTIN D. MCLEAN, WSBA No. 33269
23 Attorneys for Plaintiff
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