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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CARMEN TAGEANT,

Plaintiff,

v.

MICHAEL ASHBY, in his personal capacity,

Defendant.

CASE NO. 2:19-cv-1082

NOTICE OF REMOVAL OF CIVIL
ACTION

(Whatcom County Superior Court
Case No. 18-2-00073-37)

To: Clerk, United States District Court
Western District of Washington

The United States, by and through undersigned counsel of record, Brian T. Moran, United States Attorney for the Western District of Washington, and Michelle Lambert, Assistant United States Attorney for said District, hereby respectfully files with the Court this Notice of Removal pursuant to Title 28, United States Code, Section 2679(d)(3), to remove Case No. 18-2-00073-37, from Whatcom County Superior Court to United States District Court for the Western District of Washington.

In support of this notice, the United States indicates as follows:

1 1. On January 10, 2018, Plaintiff Carmen Tageant filed a Complaint in Whatcom
2 County Superior Court alleging that Defendant Interim Chief of Police of the Nooksack Tribal
3 Police Department Michael Ashby allegedly “forcefully grabbed both of [Plaintiff’s] arms just above
4 the elbows and violently pushed her,” allegedly causing injury. As a result of the lawsuit, the
5 Nooksack Indian Tribe requested that the U.S. Attorney certify that Chief Ashby was acting within
6 the scope of his employment as a federal employee pursuant to an Indian Self-Determination and
7 Education Assistance Act (“ISDEAA”) contract, remove the case to federal court, and substitute the
8 United States as defendant pursuant to the Federal Tort Claims Act (“FTCA”). After analyzing the
9 law and facts, including the ISDEAA contract, the U.S. Attorney declined to certify that Chief
10 Ashby was acting within the scope of his employment pursuant to the pertinent ISDEAA contract at
11 the time of the incident.

12 2. On June 28, 2019, Chief Ashby filed a motion in Whatcom County Superior Court
13 Case No. 18-2-00073-37, requesting that the state court certify that he was a federal employee acting
14 in the scope of his employment at the time of the incident for the purposes of the FTCA.

15 2. The above-referenced state court action may be removed to the United States District
16 Court under 28 U.S.C. § 2679(d)(3), by virtue of the following:

17 a. Chief Ashby has moved the state court to certify that he was acting within
18 scope of his federal employment;

19 b. Pursuant to 28 U.S.C. § 2679(d)(3), when such a motion has been filed against
20 the United States, the case may be removed to the district court of the United States for the
21 district and division in which the motion is pending.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee/contractor in the Office of the United States Attorney for the Western District of Washington and is a person of such age and discretion as to be competent to serve papers;

That on this date, she caused copies of the *Notice of Removal of Civil Action* to be served upon the individual(s) hereinafter named by e-mail and by first class mail addressed as follows:

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Dated this 12th day of July, 2019

/s/ Rebecca L. Clauson
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