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7	UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON	
8	AT SEATTLE	
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10	CARMEN TAGEANT,	CASE NO. 2:19-cv-1082
11	Plaintiff, v.	NOTICE OF REMOVAL OF CIVIL ACTION
12	MICHAEL ASHBY, in his personal capacity,	(Whatcom County Superior Court
13	Defendant.	Case No. 18-2-00073-37)
14	To: Clerk, United States District Court Western District of Washington	
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16	The United States, by and through undersigned counsel of record, Brian T. Moran, United	
17	States Attorney for the Western District of Washington, and Michelle Lambert, Assistant United	
18	States Attorney for said District, hereby respectfully files with the Court this Notice of Removal	
19	pursuant to Title 28, United States Code, Section 2679(d)(3), to remove Case No. 18-2-00073-37,	
20	from Whatcom County Superior Court to United States District Court for the Western District of	
21	Washington.	
22	In support of this notice, the United States indicates as follows:	
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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 Chief Ashby has moved the state court to certify that he was acting within a. 18 scope of his federal employment; 19 b. Pursuant to 28 U.S.C.  $\S$  2679(d)(3), when such a motion has been filed against

the United States, the case may be removed to the district court of the United States for the district and division in which the motion is pending.

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Under Local Rule CR 101(b), the United States attaches a copy of the Complaint in
 this matter. The United States will file herewith copies of all records from the state court
 proceeding.

4 4. A copy of this Notice of Removal is being served upon all parties to the underlying
5 litigation and will be promptly filed with the clerk of the Whatcom County Superior Court.

5. Intradistrict Assignment. Upon information and belief and during the relevant time
period giving rise to the allegations of the Claim, Plaintiff Carmen Tageant was a resident of
Whatcom County, Washington. Additionally, upon information and belief, the location where the
alleged claims arose, is located in Whatcom County. Accordingly and pursuant to Local Rule CR
3(d), this case should be assigned to a judge in Seattle.

WHEREFORE, based upon the foregoing and pursuant to 28 U.S.C. § 2679(d)(3), the abovereferenced action is removed from the Whatcom County Superior Court, to the United States District
Court for the Western District of Washington.

DATED this 12th day of July, 2019.

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Respectfully submitted,

BRIAN T. MORAN United States Attorney

/s/ Michelle Lambert MICHELLE LAMBERT, NYS #4666657 Assistant United States Attorney Western District of Washington United States Attorney's Office 1201 Pacific Avenue, Suite 700 Tacoma, Washington 98406 Phone: 253-428-3824 E-mail: michelle.lambert@usdoj.gov

1 || **CERTIFICATE OF SERVICE** The undersigned hereby certifies that she is an employee/contractor in the Office of the 2 United States Attorney for the Western District of Washington and is a person of such age and 3 discretion as to be competent to serve papers; 4 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: 5 6 Gabriel S. Galanda Bree R. Black Horse 7 P.O. Box 15146 Seattle, WA 98115 8 (206) 557-7509 E: gabe@galandabroadman.com 9 E: bree@galandabroadman.com 10 **Charles Hurt** 11 **Rickie Armstrong** Office of Tribal Attorney 12 P.O. Box 63 Deming, WA 98244 13 (360) 592-2125 E: rarmstrong@nooksack-nsn.gov 14 Thomas B. Nedderman 15 Floyd, Pflueger & Ringer, P.S. 200 W. Thomas St., Ste. 500 16 Seattle, WA 98119 (206) 441-4455 17 E: tnedderman@floyd-ringer.com 18 Dated this 12th day of July, 2019 19 20 /s/ Rebecca L. Clauson REBECCA L. CLAUSON, Legal Assistant 21 United States Attorney's Office 22 1201 Pacific Avenue, Suite 700 Tacoma, Washington 98402 23 Phone: (253) 428-3800 E-mail: rebecca.clauson@usdoj.gov 24