

1
2
3
4
5
6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF WHATCOM

7 CARMEN TAGEANT,

NO. 18-2-00073-37

8 Plaintiff,

AMENDED COMPLAINT

9 v.

10 MICHAEL ASHBY, in his personal capacity,

11 Defendant.
12

13 COMES NOW Plaintiff Carmen Tageant, by and through her attorneys of record,
14 Galanda Broadman, PLLC, and, upon her own personal knowledge, and upon information and
15 belief, alleges and claims against Defendant Michael Ashby as follows:

16 **I. PARTIES**

17 1. Plaintiff CARMEN TAGEANT is a 46-year-old female resident of the State of
18 Washington. Ms. Tageant resides in Everson, Washington. She is a member of the Nooksack
19 Indian Tribe. She is a mother of seven children and a grandparent of three children.

20 2. Defendant MICHAEL ASHBY is a resident of the State of Washington.
21 Defendant Ashby resides in Bellingham, Washington. He is not a member of the Nooksack
22 Indian Tribe or any other Indian Tribe. Defendant Ashby was fired from the Ferndale Police
23 Department for department policy violations, before gaining employment with the Nooksack
24 Police Department in 2015. He started work as a Nooksack police officer in June of 2016.
25 Since April 14, 2017, he has held himself out as the Nooksack Police Chief.

1 commands and opposed its illegal agenda. Instead, Ms. Tageant conducted Tribal Council
2 business in the way she knew was best for all Nooksack people.

3 6. As of March 24, 2016, the Nooksack Tribal Council's refusal to comply with its
4 own laws, for want of the quorum required by the Constitution and Bylaws of the Nooksack
5 Indian Tribe, rendered it defunct; and any post-March 24, 2016, acts of the then Holdover Tribal
6 Council or its subordinate governmental entities or agents are *ultra vires* and void *ab initio*,
7 according to the United States.¹ This includes the post-March 24, 2016, purported appointment
8 by the Holdover Tribal Council and Katrice Romero of Defendant Ashby as Nooksack Tribal
9 Police Chief on April 14, 2017, or any post-March 24, 2016, purported act of Defendant Ashby
10 as Nooksack Tribal Police Chief.

11 7. In April of 2016, the Tribal Council illegally recalled Ms. Tageant from the Tribal
12 Council. To accomplish her recall, LeAndra Smith, a Faction member, created a fake Facebook
13 profile under the name "Keith Williams" ("Williams Facebook Account"), from which she
14 posted misogynist, pornographic, and otherwise demeaning things about Ms. Tageant.

15 8. Ms. Smith and Defendant Ashby have communicated with one another about the
16 activity on the Williams Facebook Account, which Ms. Smith deactivated the day after this
17 lawsuit was filed, on January 18, 2018 between 4:16 PM and 6:03 PM Pacific Time.

18 9. Ms. Tageant filed a report and documentary evidence with the Nooksack Police
19 Department regarding the harassment she was enduring from the Williams Facebook Account,
20 but nothing meaningful has been done by Defendant Ashby or the Nooksack Police Department

21
22 ¹ See Letter from Lawrence Roberts, Principal Deputy Assistant Secretary – Indian Affairs, United States
23 Department of Interior, to Robert Kelly, Jr., Chairman, Nooksack Indian Tribe (Dec. 23, 2016), available at
24 <https://turtletalk.files.wordpress.com/2017/01/12-23-16-letter-from-pdas-ia-lawrence-roberts-to-robert-kelly-jr.pdf>;
25 Letter from Lawrence Roberts, Principal Deputy Assistant Secretary – Indian Affairs, United States Department of
Interior, to Robert Kelly, Jr., Chairman, Nooksack Indian Tribe (Nov. 14, 2016), available at
<https://turtletalk.files.wordpress.com/2016/11/letter-from-lawrence-roberts-to-chairman-kelly.pdf>; Letter from
Lawrence Roberts, Principal Deputy Assistant Secretary – Indian Affairs, United States Department of Interior, to
Robert Kelly, Jr., Chairman, Nooksack Indian Tribe (Oct. 17, 2016), available at
<https://turtletalk.files.wordpress.com/2016/10/letter-from-pdas-ia-lawrence-roberts-to-chairman-bob-kelly.pdf>.

1 to investigate the harassment she has endured from the Williams Facebook Account; or to cite
2 Ms. Smith for the crimes she committed against Ms. Tageant from the Williams Facebook
3 Account.

4 10. On December 13, 2016, this Court accorded deference to the October 17 and
5 November 14, 2016, decisions of Lawrence S. Roberts, Principal Deputy Assistant Secretary of
6 Indian Affairs (“PDAS”) for the U.S. Department of the Interior, not to “recognize as lawful or
7 carrying any legal effect the actions or decisions of the Nooksack Tribal Council after March
8 24, 2016 . . . ,” including the Faction’s recall of Ms. Tageant. *In re Gabriel S. Galanda, et al. v.*
9 *Nooksack Tribal Ct.*, No. 16-2-01663-1, Dkt. No. 55. “This Court, therefore, does not
10 recognize any such post-March 24, 2016 actions or decisions of the Nooksack Tribal Council . .
11 . . .” *Id.*

12 11. On December 23, 2016, PDAS Roberts issued a third decision, declaring that
13 Nooksack law enforcement officers lack tribal or federal authority to carry out “actions taken by
14 the Tribal council after March 24, 2016.”

15 12. On April 14, 2017, Defendant Ashby was appointed Nooksack Police Chief and
16 officially became part of the Faction.

17 13. On April 27, 2017, Whatcom County Sheriff Bill Elfo emailed his staff in
18 reference to Defendant Ashby: “there has been a change of leadership in the [Nooksack] Police
19 Department that is of concern.”

20 14. On December 24, 2017, an August 25, 2017, Memorandum of Agreement
21 (“MOA”) between former Acting Assistant Secretary of Indian Affairs, Mike Black, and
22
23
24
25

1 Nooksack Tribal Chairman Robert Kelly Jr., the Chairman of the Nooksack Tribe—which
2 temporarily restored recognition of the Nooksack Tribal Council—expired under its own terms.²

3 15. As of the date of this filing, any and all actions and decisions of the Holdover
4 Tribal Council between March 24, 2016 and March 8, 2018—including their appointment of
5 Defendant Ashby as Nooksack Police Chief—and its surrogates—including Defendant Ashby
6 holding himself out as Police Chief—remain *ultra vires*.

7 16. In December of 2017, the Council commenced the General Election procedures
8 for the four Tribal Council seats that are set to expire in March of 2018, which includes Ms.
9 Tageant’s seat. Meanwhile, Defendant Ashby and Election Superintendent Katrice Rodriguez,
10 another Faction member, conspired to corrupt a December 2017, Special Election for the for the
11 four Tribal Council seats that expired on March 24, 2016. In early 2018, Defendant Ashby
12 bragged to people associated with the Sudden Valley Community Association (“SVCA”) how
13 easy it was to corrupt a community election through ballot stuffing.

14 17. On January 5, 2018, at 1:58 p.m., Ms. Tageant arrived at the Nooksack Election
15 Board Office in Deming, Washington to deliver her candidate application before the 2:00 p.m.
16 filing deadline. Ms. Tageant sought to run for reelection. The Nooksack Election Board Office
17 sits on off-reservation fee lands owned by the Nooksack Tribe.

18 18. As Ms. Tageant approached the front door of the Elections Board Office,
19 Defendant Ashby saw her, with application materials in hand, and locked the front door. As it
20 was not yet 2:00 p.m., Ms. Tageant knocked on the front door. Defendant Ashby opened the
21 front door in response, and allowed Ms. Tageant into the building.

22 19. Upon entering, Ms. Tageant announced that she was there to turn in her candidate
23 application. At the same moment when Ms. Rodriguez—who was also involved in harassing

24 ² Memorandum of Agreement between Michael Black, Acting Assistant Secretary – Indian Affairs, United State
25 Department of Interior, and Robert Kelly, Jr., Chairman, Nooksack Indian Tribe (Aug. 25, 2017), *available at*
<https://turtletalk.files.wordpress.com/2017/09/moa-8-28-17.pdf>.

1 Ms. Tageant from the Williams Facebook Account—announced to her, “you’re too late,”
2 Defendant Ashby forcefully grabbed both of Ms. Tageant’s arms just above her elbows and
3 violently pushed her back. Defendant Ashby battered Ms. Tageant without provocation.

4 20. Ms. Tageant was stunned by Defendant Ashby’s action, telling him, “what are
5 you doing? Don’t touch me.”

6 21. Defendant Ashby again reached for Ms. Tageant, and out of fear, she stepped
7 backward out of his reach and extended her arm to keep Defendant Ashby away from her.
8 Again, Ms. Tageant told Defendant Ashby not to put his hands on her again. Defendant Ashby
9 assaulted Ms. Tageant without provocation.

10 22. Ms. Tageant feared what would happen if she stayed; so, she exited the building
11 and walked back to the safety of her car. As she was walking to her car, she kept looking over
12 her shoulder, afraid Defendant Ashby would follow her.

13 23. As Ms. Tageant drove away from the Elections Board Office, Defendant Ashby
14 came outside and made a point of making eye contact with and smirking at her in an
15 intimidating manner.

16 24. On the afternoon of January 5, 2018, when Defendant Ashby assaulted and
17 battered Ms. Tageant, the Nooksack Tribal Council lacked recognition and Defendant Ashby
18 lacked any tribal or federal law enforcement authority according to the United States. He acted
19 in his personal capacity that afternoon.³ Defendant Ashby’s forcible exclusion of Ms. Tageant
20 from the Elections Board Office and his forcible preclusion of Ms. Tageant’s candidacy for
21 Tribal Council office were part of a conspiracy with the Faction and to maintain power over the

22
23 ³ On September 5, 2019, U.S. District Court Judge James L. Robart affirmed a March 14, 2019, Department of the
24 Interior decision, notifying Defendant Ashby that “the United States Attorney’s Office for the Western District of
25 Washington has declined to certify that Chief of Police Ashby was acting pursuant to his federal employment” under
a federal-tribal law enforcement funding agreement, on January 8, 2018. *See Tageant v. Ashby*, No. 2:19-cv-
01082JLR (W.D. Wash.), ECF No. 23. Judge Robart dismissed with prejudice Defendant Ashby’s motion to certify
that he was acting within the course and scope of his federal employment on January 8, 2018. *See id.*

1 overthrown Nooksack tribal government. For Defendant Ashby, his desire was to remain
2 employed and empowered as Nooksack Police Chief.

3 25. Since the assault and battery, Ms. Tageant has experienced severe emotional
4 trauma. She has been paralyzed with fear, not only for herself, but for her children as well.
5 While at home, Ms. Tageant is careful to ensure that her doors and windows are locked at all
6 times, checking the locks throughout the day. Ms. Tageant experiences flashbacks of the
7 incident that cause her to become shaky and to cry. She has been unable to sleep, terrorized
8 with nightmares of this incident. Due to this trauma and the effect on her life, including the loss
9 of an opportunity to run for re-election, Ms. Tageant has begun experiencing—and since been
10 diagnosed with—depression and “marked distress . . . inconsistent mood . . . feelings of
11 depression, anxiety, insomnia, hyper-vigilance, and heightened panic . . . an increase in PTSD
12 symptoms.”

13 26. On January 9, 2018, Ms. Tageant went, upon successive referrals, to receive
14 medical and mental health care from the Nooksack Tribal Clinic, Nooksack Domestic Violence
15 and Sexual Assault Services, Whatcom County Domestic Violence and Sexual Assault Services
16 (“DVSAS”), and Lummi Nation Victims of Crime, for the emotional trauma she has suffered as
17 a result of Defendant Ashby’s assault and battery of her. Ms. Tageant was prescribed
18 medication to ease her anxiety and to allow her to sleep.

19 27. By January 10, 2018, Ms. Tageant reported Defendant Ashby’s assault and
20 battery of her, in part at the recommendation of DVSAS, with the U.S. Department of the
21 Interior Office of Tribal Justice (“OTJ”), the Bureau of Indian Affairs Puget Sound Agency
22 Superintendent, and the Whatcom County Sheriff. In the late summer or early fall of 2019,
23 OTJ’s Internal Affairs Division commenced an investigation into police brutality at Nooksack,
24 including Defendant Ashby’s January 5, 2018, assault and battery of Ms. Tageant.

1 28. By the summer of 2018, Ms. Tageant “continue[d] to re-experience the memory
2 of her assault,” according to her mental health care providers. In July of 2018, she suffered a
3 mini-stroke or transient ischemic attack (“TIA”) and was admitted to the St. Joseph’s Hospital
4 Emergency Room for two days. A “sudden left side weakness and impaired speech” were
5 documented. A month later Ms. Tageant still suffered from “persistent left leg weakness and
6 decreased left grip strength,” requiring her to walk with a cane, and “note[d] difficulty finding
7 words and mild short term memory impairment.” Her “mood” remained “low and anxious.”

8 29. By September 2018, Ms. Tageant “continued to have left side weakness and . . .
9 occasional shock and pain in her left arm, leg.” She also noted “temporary bouts of weakness,
10 feeling ‘as if brain can’t communicate to her left arm and leg, occurring as recent as 2 days
11 ago,” as well as “blurred vision since the original accident.” The memory and effects of
12 Defendant Ashby assault and battery of Ms. Tageant only six months prior contributed to such
13 physical manifestations of emotional distress.

14 30. Meanwhile, as of April 10, 2018, the Washington State Bar Association
15 commented that the Nooksack “‘justice system,’” inclusive of its Tribal Police Department, is
16 “probably not worthy of that description.” *Grievance of Gabriel S. Galanda against Connie Sue*
17 *M. Martin*, ODC File No. 17-01776 (Wash. St. Bar. Assoc.). PDAS Tahsuda expressed the
18 United States’ continued concern to the Nooksack Tribe about the need for “respect for the rule
19 of law” at Nooksack on June 11, 2018.

20 31. January 5, 2018, was not the first time Defendant Ashby has attempted to
21 intimidate, threaten, or harass Ms. Tageant or other women, especially Nooksack Indian
22 women, or has conspired with others to do so.

23 32. On April 22, 2016, Defendant Ashby, then a SVCA Board member, got “very
24 agitated, hostile and belligerent” towards SVCA Board President Leslie McRoberts; and also
25 “got aggressive” with a SVCA receptionist.

1 33. On April 26, 2016, Defendant Ashby got “aggressive, unfriendly, and abrupt”
2 with a SVCA employee, causing her to feel “uncomfortable” and “uneasy.”

3 34. On December 15, 2016, Defendant Ashby assaulted 56-year-old Nooksack Elder
4 Deborah Alexander on fee lands in Deming, Washington, owned by the Burlington Northern
5 Santa Fe Railway company. That day Ms. Alexander traveled to the Nooksack Tribal Court
6 with my boyfriend to support my sister Margretty Rabang, who was being illegally evicted from
7 her home of twenty-two years. The Nooksack police had blocked driveway access to the Tribal
8 Court, with police officers and vehicle and neon yellow traffic cones.

9 35. As she approached the driveway and blockade, Ms. Alexander calmly asked the
10 Tribal police, “Do you know if they’re having my sister’s court over there?” Mr. Ashby
11 indicated her sister had Tribal Court at 1:30 p.m. Although Ms. Alexander never crossed the
12 line of yellow traffic cones, Mr. Ashby began to approach her, saying, “Stay behind the line.”
13 Mr. Ashby repeated his command, raising his voice more loudly each time. She sill had not
14 crossed the line of yellow traffic cones. Mr. Ashby then quickly approached Ms. Alexander,
15 coming within inches of her. Fearing he was about to put his hands on her, she yelled, “Don’t
16 touch me.” She was holding her phone in her right hand. Mr. Ashby then put both of his hands
17 on the left side of her upper body, between my collar bone and breasts, and violently shoved
18 her—in much the same way violently he shoved Ms. Tageant on January 5, 2018.

19 36. After Ms. Tageant filed for a protection order against the former Nooksack Tribal
20 Chairman—who she believed was masquerading as “Keith Williams” to harass her— in the
21 summer of 2017, Defendant Ashby began shooting shotguns as “target practice,” immediately
22 behind Ms. Tageant’s home while her children were playing outside. Defendant Ashby’s
23 intimidation caused Ms. Tageant to drop the request for a protection order.

24 37. On June 5, 2019, at around 10:26 a.m., Ms. Tageant was driving home along a
25 state highway in Whatcom County with her children in the car and noticed that Defendant

1 Ashby was following her. Defendant Ashby continued to follow her in his car for the next
2 seven miles. Ms. Tageant and her children were scared the entire drive of what Defendant
3 Ashby might do to them.

4 38. Ms. Tageant believes Defendant Ashby is a violent abuser, and she is determined
5 to hold him accountable for his assault and battery of her on January 5, 2018.

6 **IV. FIRST CAUSE OF ACTION – BATTERY**

7 39. On January 5, 2018, Defendant Ashby intentionally, and without Ms. Tageant's
8 consent, physically grabbed both of her arms and shoved her backward with excessive force.

9 40. This unwanted and unlawful, physical contact on January 5, 2018 caused Ms.
10 Tageant to suffer great anxiety about the possibility of further unwanted contact by Defendant
11 Ashby.

12 41. As a proximate result of the acts on January 5, 2018 alleged herein Ms. Tageant
13 suffered harm, entitling her to damages in an amount to be proven at trial.

14 42. This harm includes objectively verifiable monetary losses, such as medical
15 expenses and loss of earnings.

16 43. This harm also includes subjective, nonmonetary losses, including, but not limited
17 to pain, suffering, loss of enjoyment of life, mental anguish, and emotional distress.

18 **V. SECOND CAUSE OF ACTION – ASSAULT**

19 44. After physically grabbing and shoving Ms. Tageant on January 5, 2018,
20 Defendant Ashby stepped towards her again. Ms. Tageant stepped backward out of Defendant
21 Ashby's reach. This was an intentional attempt to inflict injury on Ms. Tageant.

22 45. Through his conduct on January 5, 2018, Defendant Ashby placed Ms. Tageant in
23 a state of fear of imminent, harmful, and unwanted physical contact.

24 46. As a proximate result of the acts on January 5, 2018 alleged herein Ms. Tageant
25 suffered harm, entitling her to damages in an amount to be proven at trial.

1 47. This harm includes objectively verifiable monetary losses, such as medical
2 expenses and loss of earnings.

3 48. This harm also includes subjective, nonmonetary losses, including, but not limited
4 to pain, suffering, loss of enjoyment of life, mental anguish, and emotional distress.

5 **VI. THIRD CAUSE OF ACTION – INFLICTION OF EMOTIONAL DISTRESS**

6 49. Defendant Ashby's conduct towards Ms. Tageant on January 5, 2018 was extreme
7 and outrageous. Defendant Ashby intentionally caused Ms. Tageant emotional distress by: (1)
8 grabbing her and pushing her without provocation and (2) attempting to grab her a second time.
9 As a result of Defendant Ashby's conduct, Plaintiff suffered legally compensable emotional
10 distress damages.

11 50. As a proximate result of the acts on January 5, 2018 alleged herein Ms. Tageant
12 suffered harm, entitling her to damages in an amount to be proven at trial.

13 51. This harm includes objectively verifiable monetary losses, such as medical
14 expenses and loss of earnings.

15 52. This harm also includes subjective, nonmonetary losses, including, but not limited
16 to pain, suffering, loss of enjoyment of life, mental anguish, and emotional distress.

17 **VII. JURY DEMAND**

18 Ms. Tageant hereby demands a jury.

19 **VIII. PRAYER FOR RELIEF**

20 WHEREFORE, Ms. Tageant prays as follows against Defendant Ashby in his personal
21 capacity:

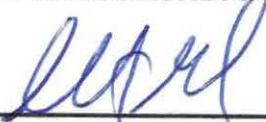
22 1. For judgment against the Defendant Ashby for general, special, and punitive
23 damages, including damages for pain, suffering, and terror, in an amount to be proven at trial;

24 2. For compensatory damages to include, but not restricted to, damages for
25 emotional distress and mental anguish in amounts to be proven at trial;

- 1 3. An award of reasonable attorneys' fees and costs;
- 2 4. Any and all applicable interest on the judgment; and
- 3 5. For such additional relief as this Court may deem just and proper.

4 DATED this 13th day of December 2019.

5 GALANDA BROADMAN, PLLC

6 

7 _____
8 Gabriel S. Galanda, WSBA #30331
9 Ryan D. Dreveskracht, WSBA #42593
10 Attorneys for Plaintiff
11 P.O. Box 15146, Seattle, WA 98115
12 (206) 557-7509 Fax: (206) 299-7690
13 Email: gabe@galandabroadman.com
14 Email: ryan@galandabroadman.com

1 **CERTIFICATE OF SERVICE**

2 I, Wendy Foster, declare as follows:

3 1. I am now and at all times herein mentioned a legal and permanent resident of the
4 United States and the State of Washington, over the age of eighteen years, not a party to the
5 above-entitled action, and competent to testify as a witness.

6 2. I am employed with the law firm of Galanda Broadman PLLC, 8606 35th Ave.
7 NE, Suite L1, Seattle, WA 98115.

8 3. On December 13, 2019, I sent via U.S. Mail and Email the foregoing documents
9 to the following:

10 Charles Hurt, WSBA #46217
11 Rickie W. Armstrong, WSBA #34099
12 Office of Tribal Attorney
13 P.O. Box 63
14 5047 Mt. Baker Hwy
15 Deming, WA 98244

16 Thomas B. Nedderman
17 200 W. Thomas St., Ste. 500
18 Seattle, WA 98119
19 F: (206) 441-8484
20 tnedderman@floyd-ringer.com

21 Attorneys for Defendant Ashby

22 The foregoing statement is made under penalty of perjury and under the laws of the State
23 of Washington and is true and correct.

24 Signed at Seattle, Washington, this 13th day of December, 2019.

25 
Wendy Foster