

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**
KENT COUNTY COURTHOUSE
38 THE GREEN
DOVER, DELAWARE 19901
PHONE: (302) 735-3910

CHARLES W. WELCH, III
JUDGE

January 23, 2017

Ms. Nina Shahin
103 Shinnecock Road
Dover, DE 19904

Daniel A. Griffith, Esq.
Whiteford, Taylor & Preston, LLC
The Renaissance Centre, Suite 500
405 North King Street
Wilmington, DE 19801

RE: Nina Shahin v. Dover Police Officer Dale Boney, Badge #10216, et al.
C.A. No.: CPU5-14-000682

Decision on Plaintiff's "Election" for Initiation of the Process to Transfer the
Case to Federal Court for the District of Delaware

Dear Ms. Shahin and Mr. Griffith:

The Court has reviewed the Plaintiff's Motion, termed "Election," for Initiation of the Process to Transfer the Case to Federal Court for the District of Delaware under 10 *Del. C.* § 1902 and 42 U.S.C. § 1983, that was filed with the Court on August 19, 2016, along with all of the parties' arguments made thereon. Please be advised that the plaintiff's motion is denied.

As explained in the Court's order of July 19, 2016, the first mention of a 42 U.S.C. § 1983 claim by the plaintiff was in the plaintiff's Response to the Court's Order for Additional Argument concerning the defendant's immunity defense under The County Municipal Tort Claims Act. The Court disregarded the plaintiff's § 1983 claim because it was improper and outside the scope of the Court's Order (and case). Next, the

plaintiff requested to transfer the case to the United States District Court for the District of Delaware pursuant to 10 *Del. C.* § 1902. The plaintiff's request was denied due to the fact that the plaintiff's claim had been adjudicated and that the plaintiff failed to follow proper procedure for bringing a claim in Federal Court.

Please be advised that nothing contained in the plaintiff's arguments since the Court's July 19, 2016, order is sufficient to have the Court change or modify its ruling. Removal of actions from courts lacking jurisdiction under 10 *Del. C.* § 1902, only provides an avenue for the transfer of civil cases between State courts for lack of civil jurisdiction. Section 1902 does not provide for the transfer of cases to federal courts. The only avenue for the plaintiff to pursue her § 1983 claim at this time would be to file it in a court of competent jurisdiction.

The Court also notes that the plaintiff's claim against defendant Dale Boney for this case has been dismissed. Therefore, there is no claim against him to transfer.

IT IS SO ORDERED.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charles W. Welch, III".

Charles W. Welch, III

CWW:mek
pc: Reneta L. Green-Streets, Esq.