1 DAYLE ELIESON United States Attorney 2 District of Nevada 3 TROY K. FLAKE **Assistant United States Attorney** 4 501 Las Vegas Boulevard South, Suite 1100 Las Vegas, Nevada 89101 5 Telephone: 702-388-6336 Email: troy.flake@usdoj.gov 6 Attorneys for the United States. 7 8 9 10 UNITED STATES DISTRICT COURT 11 DISTRICT OF NEVADA 12 JUANITTA DARLYNN, Case No. 2:17-cv-02800-JAD-VCF 13 Plaintiff, 14 v. NOTICE OF SUBSTITUTION 15 CHRISTOPHER MARK SHERMAN, individually; DEPARTMENT OF THE AIR 16 FORCE, a Division of the UNITED STATES of AMERICA; DOES I through XX, ROE 17 CORPORATION I through X; ROE EMPLOYEES I through X inclusive, 18 Defendants. 19 20 The United States of America hereby notifies Plaintiff and this Court that Dayle Elieson, 21 United States Attorney for the District of Nevada, an authorized representative of the Attorney 22 General of the United States of America, has certified that Federal Defendant Christopher Mark 23 Sherman was acting within the course and scope of his duties with the United States Air Force 24 at all times relevant to the events alleged in Plaintiff's Complaint. (Exhibit 1, Certification of 25 Scope of Employment of Christopher Mark Sherman.) 26 Thus, this action "shall be deemed to be an action or proceeding brought against the 27 United States . . . , and the United States shall be substituted as the party defendant" in place of 28 Christopher Mark Sherman. 28 U.S.C. § 2679(d)(2) and 28 U.S.C. § 2671.

Based on the foregoing, the United States Attorney's certification automatically 1 substitutes the United States of America as the defendant in the place of Christopher Mark 2 3 Sherman in this case and the caption of this case should be amended by removing Defendant 4 Christopher Mark Sherman individually and substituting the United States of America. For the convenience of this Court, the United States of America submits a proposed 5 Order reflecting this substitution and amending the caption of this action accordingly. (Exhibit 6 7 2, Proposed Order.) 8 Dated this 22nd day of January 2018. 9 **DAYLE ELIESON** United States Attorney 10 /s/ Troy K. Flake 11 TROY K. FLAKE Assistant United States Attorney 12 13 14 15 16 17 18 19 PROOF OF SERVICE 20 I, Troy K. Flake, hereby certify that the **NOTICE OF SUBSTITUTION** was served 21 this date on all parties via the Court's Electronic Case Filing system. 22 Dated this 22nd day of January 2018. 23 /s/ Troy K. Flake TROY K. FLAKE 24 Assistant United States Attorney 25 26 27

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EXHIBIT 1

Certification of Scope of Employment

1 2	DAYLE ELIESON United States Attorney District of Nevada		
3	TROY K. FLAKE		
4	Assistant United States Attorney 501 Las Vegas Boulevard South, Suite 1100		
5	Las Vegas, Nevada 89101 Telephone: 702-388-6336		
6	Email: troy.flake@usdoj.gov		
7	Attorneys for the United States.		
8	UNITED STATES DISTRICT COURT		
9	DISTRICT OF NEVADA		
10	JUANITTA DARLYNN,)	
11	Plaintiff,) Case No. 2:17-cv-02800-JAD-VCF	
12	v.)	
13	CHRISTOPHER MARK SHERMAN, et al.) CERTIFICATION OF SCOPE OF) EMPLOYMENT	
14	Defendants.		
15			
16	Pursuant to 28 U.S.C. § 2679(d)(2), and by virtue of the authority vested in me by the		
17	Attorney General of the United States of America under 28 CFR § 15.4, I hereby certify:		
18	1. I have read the Complaint filed on November 7, 2018, in the case entitled		
19	Juanitta Darlynn v. Christopher Mark Sherman, individually;, et al., Case No. 2:17-cv-02800-		
20	JAD-VCF, and have reviewed materials pertaining to the employment status of Christopher		
21	Mark Sherman, an employee of the United States Air Force.		
22	2. Based on the information currently available to me with respect to the incident		
23	that is the subject of this action, Christopher Mark Sherman was acting within the course and		
24	scope of his employment as an employee of the United States Air Force, at the time of the		
25	incidents out of which the suit arose.		
26	Dated this 22 day of January 2018.		
27	5 Millian		
28	D. U	AYLE ELIESON nited States Attorney	

EXHIBIT 2

Proposed Order

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5		DIGEDICE COURT
6	UNITED STATES DISTRICT COURT	
7	DISTRICT OF NEVADA	
8	JUANITTA DARLYNN,) Case No. 2:17-cv-02800-JAD-VCF
9	Plaintiff,)
10	V.)
11	UNITED STATES OF AMERICA; DEPARTMENT OF THE AIR FORCE, a	(PROPOSED) ORDER
12	Division of the UNITED STATES of AMERICA; DOES I through XX, ROE)
13	CORPORATION I through X; ROE EMPLOYEES I through X inclusive,)
14)
15	Defendants.) _)
16		
17	This Court having been apprised by the United States of America that Dayle Elieson,	
18	United States Attorney for the District of Nevada, an authorized representative of the Attorney	
19	General of the United States of America, has certified that Federal Defendant Christopher Marl	
20	Sherman was acting within the course and scope of his duties as an employee of the United	
21	States Air Force at all times relevant to the events alleged in Plaintiff's Complaint pursuant to	
22	28 U.S.C. §§ 2679(b)(1), (d)(2) and 2671 and having been apprised of the Substitution of the	
23	United States of America in place of Federal Defendant Christopher Mark Sherman pursuant to	
24	28 U.S.C. §§ 2679(b)(1), (d)(2) and 2671,	
25	IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Federal Defendant	
26	Christopher Mark Sherman is dismissed from this action on the grounds that the exclusive	
27	remedy for such claims is an action against the United States of America pursuant to 28 U.S.C.	
28	§§ 2679(b)(1), (d)(2) and 2671;	

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the United States of America has been substituted as a Federal Defendant in this case;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the caption of this action is and shall hereafter be modified as shown above to reflect the substitution of the United States of America in place of Federal Defendant Christopher Mark Sherman.

Contacto

UNITED STATES MAGISTRATE JUDGE

DATED: <u>2-13-2018</u>