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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN BARRIER, et al.,

Plaintiffs,

vs.

CITY OF AIRWAY HEIGHTS, et al.,

Defendants.

NO. CV-99-0240-JLQ

ORDER OF DISMISSAL WITHOUT
PREJUDICE

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BEFORE THE COURT is Defendant's Motion and Memorandum to Dismiss for Failure to Prosecute, filed on August 3, 2006. (Ct. Rec. 78). Prior to this motion, nothing had been filed in this matter since September 18, 2002. Local Rule 41.1(b) states the following:

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In any civil case in which no action of record has been taken by the parties for the preceding one year the court or a party shall note the case for dismissal and give thirty (30) days' notice to counsel of record. If no action of record is taken in the meantime, and no satisfactory explanation of non-action is submitted, an order of dismissal without prejudice will be entered by the Court on the date the case is noted for hearing.

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Pursuant to Local Rule 41.1(b), Plaintiff's failure to respond to the Motion, and the Declaration of Jennifer C. Underwood, (Ct. Rec. 82) wherein she states that Robert Dunn, counsel of record for the Plaintiffs, indicated that he would not oppose dismissal, **IT IS HEREBY ORDERED** that the Plaintiff's complaints and the claims therein be and the same are hereby Dismissed Without Prejudice.

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The Clerk of this court shall enter this Order, enter judgment of dismissal without prejudice, forward copies to counsel, and close this file.

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DATED this 5th day of September 2006.

s/ Justin L. Quackenbush
JUSTIN L. QUACKENBUSH
SENIOR UNITED STATES DISTRICT JUDGE