

HONORABLE ROBERT J. BRYAN

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

**JOHN W. RATKO** and **LAVERNE RATKO**,  
husband and wife, and their marital community,

Petitioner,

v.

**LEWIS COUNTY**, a Washington Municipal  
Corporation,

Respondent.

Case No. C11-5015RJB

**STIPULATION OF COUNSEL AND  
STIPULATED ORDER OF DISMISSAL**

**NOTED ON MOTION CALENDAR: January  
28, 2011**

**WITHOUT ORAL ARGUMENT**

**STIPULATION**

Jane Koler from the Law Office of Jane Ryan Koler, PLLC who represents the Plaintiffs in this matter, Mr. and Mrs. Ratko, and David Fine, Deputy Prosecutor, representing Lewis County a Washington Municipal Corporation enter into the following stipulation.

1. The parties agree that the Plaintiffs, Mr. and Mrs. Ratko, can take a voluntary non-suit on their Section 1983 claim which was based on a taking of their property rights which is articulated in Paragraph 4 of their Complaint.

2. The state law claims based on nuisance, trespass, and condemnation of a private way of

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1 necessity should be remanded to the Lewis County Superior Court.

2  
3 DATED this \_\_\_\_ day of January, 2011.

4  
5  
6 LAW OFFICE OF JANE RYAN KOLER, PLLC

LEWIS COUNTY PROSECUTING  
ATTORNEY'S OFFICE

7 By: \_\_\_\_\_  
8 Jane Koler, WSBA # 13541  
9 Attorney for Plaintiffs

By: \_\_\_\_\_  
J. David Fine, WSBA #33362  
Civil Deputy Prosecuting Attorney  
of Attorneys for Respondent Lewis  
County

10  
11 **ORDER**

12 NOW THEREFORE, based on the above stipulation of counsel it is ordered as follows:

- 13 1. The Plaintiffs' Section 1983 claim is dismissed without prejudice pursuant to FRCP 41(a)(2).  
14 2. The Plaintiffs' claims based on state law - - nuisance, trespass and condemnation of a way of  
15 necessity are remanded to the Lewis County Superior Court.

16 Entered this 26<sup>th</sup> day of January, 2011.

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19 ROBERT J. BRYAN  
20 United States District Judge

21 Presented by:

22 LAW OFFICE OF JANE RYAN KOLER, PLLC

LEWIS COUNTY PROSECUTING  
ATTORNEY'S OFFICE

23  
24 By: /s/ \_\_\_\_\_  
25 Jane Koler, WSBA # 13541  
26 Attorney for Plaintiffs

By: /s/ \_\_\_\_\_  
J. David Fine, WSBA #33362  
Civil Deputy Prosecuting Attorney  
of Attorneys for Respondent Lewis  
County