

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Daley Farm of Lewiston, L.L.P., Ben Daley, Michael Daley, and Stephen Daley,

Case No. 0:22-CV-2957 DSD-DTS

Plaintiffs,

vs.

**NOTICE OF VOLUNTARY
DISMISSAL WITHOUT
PREJUDICE**

Marie H. Kovecs, Chris M. Meyer, Greg D. Olson, Cherie Hales, Bobby King, Doug Nopar, Johanna Rupprecht, Barb Sogn-Frank, Kelley Stanage, and Land Stewardship Project, a Minnesota nonprofit corporation,

Defendants.

Plaintiffs Daley Farm of Lewiston, L.L.P., Ben Daley, Michael Daley, and Stephen Daley commenced this action in the State of Minnesota District Court in Winona County in October 2022. Defendants removed this action to this Court on November 22, 2022. On January 9, 2023, Defendants Marie H. Kovecs, Chris M. Meyer, Greg D. Olson, Cherie Hales, and Kelley Stanage filed a motion seeking to dismiss the claims asserted in this case pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. (County Defs.' Mot. to Dismiss (Doc. 6).) On the same date, Defendants Cherie Hales, Bobby King, Doug Nopar, Johanna Rupprecht, Barb

Sogn-Frank, Kelley Stanage, and Land Stewardship Project filed a separate motion seeking to dismiss the claims asserted in this case pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. (LSP Defs.' Mot. to Dismiss (Doc. 11).)

On January 24, 2023, Plaintiffs filed and served an Amended Complaint pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. (Amended Compl. (Doc. 18).) Defendants subsequently filed motions to dismiss the Amended Complaint (County Defs.' Mot. to Dismiss (Doc. 21); LSP Defs.' Mot. to Dismiss (Doc. 26)), and Plaintiffs filed a memorandum of law in opposition to such motions (Pls.' Mem. of Law in Opposition to Defs.' Mots. To Dismiss (Doc. 33).) None of the defendants has filed or served an answer to either the original Complaint or the Amended Complaint or a motion for summary judgment.

In their motion to dismiss, the County Defendants argue, *inter alia*, that Plaintiffs' claims are not yet ripe because Plaintiffs' state-court proceeding against Winona County remains pending. Although Plaintiffs originally commenced this action in state court with the expectation that proceedings in this matter could be, and would be, coordinated with the pending proceeding against Winona County, Defendants' removal of this proceeding to this Court would prevent such coordination. Accordingly, Plaintiffs have determined that it is appropriate to voluntarily dismiss this proceeding without prejudice at this time. In doing so, Plaintiffs do not waive, but rather expressly reserve, all claims against Defendants

and intend to assert such claims (and any other claims that may arise) in a new proceeding after the pending proceeding against Winona County in the state district court is decided.

Based on the foregoing, and pursuant to Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Plaintiffs Daley Farm of Lewiston, L.L.P., Ben Daley, Michael Daley, and Stephen Daley hereby voluntarily dismiss this proceeding without prejudice.

Dated this 14th day of March, 2023.

/s/ Matthew C. Berger

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