

**OREGON JUDICIAL DEPARTMENT**  
Appellate Settlement Conference Program  
Supreme Court Building  
1163 State Street, Salem Oregon 97301-2563  
Phone: (503) 986-5874 / Fax: (503) 986 5922  
**Return this form by e-mail to: [christina.l.stoddard@ojd.state.or.us](mailto:christina.l.stoddard@ojd.state.or.us)**

**SETTLEMENT CONFERENCE STATEMENT**

**DATE: 09/08/2020**

Case Title: **Three Rivers Landowners Association v. Jefferson County**  
Case No: **A174510** Case Type: **Civil - General**  
Previous Court: **Jefferson County Circuit Court**

The Court of Appeals has directed this case to its Appellate Settlement Conference Program.

**\*\*\* IMPORTANT \*\*\***

**WITHIN 10 DAYS of the date of this statement, the appellant/petitioner MUST complete this statement and RETURN TO: the email address above. DO NOT E-FILE.**

Additionally, a copy of this statement must be served on each of the other parties or the party's attorney(s). Failure to timely file this statement or to timely correct and resubmit an incomplete statement may result in court-imposed sanctions.

*Please type or print. Attach additional pages if necessary.*

**1. PLEASE BRIEFLY DESCRIBE THE NATURE OF THIS ACTION OR PROCEEDING AND THE RESULT IN THE TRIAL COURT/AGENCY.**

*(Please attach any written findings and letter opinions. You need NOT attach the judgment or order submitted with your notice of appeal/petition for judicial review)*

The trial court was asked under ORS Chapter 28 whether a road dedicated but not constructed for public passage ("opened") in 1896 continues to burden Plaintiff's property. Plaintiff is a private landowner association with over 700 members without public access. An additional trial issue presented was whether Jefferson County was estopped from recognizing or opening the contested road due to its past conduct in approving Three Rivers development without the burden of a public road. Plaintiff strongly disagrees with the trial court's opinion which is attached. Also attached find Plaintiff's Rule 62 request for further different and additional findings.

**HOW LONG DID THE TRIAL/HEARING TAKE?**

The trial took two days but discovery, summary judgment motions and briefing of the legal issues took substantial time.

**IS THERE A RESTRAINING ORDER/STALKING ORDER IN EFFECT?**     YES     NO     N/A

**2. ISSUES ON REVIEW AND RELIEF SOUGHT. PLEASE BRIEFLY STATE YOUR LIKELY ASSIGNMENT(S) OF ERROR AND THE RELIEF YOU SEEK IN THE COURT OF APPEALS**

The first assignment of error will read that the trial court erred as a matter of law when it misinterpreted controlling Oregon law in effect until 1903, and misread Oregon Supreme Court controlling precedent.

The second assignment of error will read that the grant of Jefferson County's summary judgment on Plaintiff's estoppel claim was legal err because material issues of fact existed, and the court misapplied the law.

**3. IF TRIAL COURT / AGENCY COUNSEL IS NOT ALSO APPELLATE COUNSEL, PLEASE GIVE JUST THEIR NAME, MAILING ADDRESS, AND TELEPHONE NUMBER.**

(1)

(2)

(3)

**ARE THESE ATTORNEYS STILL ACTIVE IN THE CASE?**

YES  NO

YES  NO

YES  NO

**4. RELATED CASES AND DISPUTES**

a. Is there any other case pending or about to be filed in any court or agency that should be joined with this case for mediation if all disputes between these parties are to be resolved?

NO

If "yes", list the case name and docket number:

Court or agency:

b. Is there any other dispute (not necessarily a case) that one also might try to resolve in the course of trying to resolve this case?

NO

If "yes", briefly describe it:

**5. SETTLEMENT**

a. Have any of the parties tried to resolve this case through (check all that apply):

Arbitration?  YES  NO (If "yes", please attach copy of any arbitration award or findings)

Mediation?  YES  NO

Other Efforts?  YES  NO (If "yes", please briefly describe them)

Extensive mediation and private negotiations have occurred. This dispute spans over five years. Every time Plaintiff reached what Plaintiff believed was a settlement with Defendants, the terms were rejected at the eleventh hour by Defendant DeMonte.

b. Do you think a settlement conference now could help resolve some or all of the issues on review?

YES  NO Please explain:

A settlement conference will be a complete waste of time until and if Defendant DeMonte takes a reasonable position. The County's attorney recently asked for a settlement position from DeMonte. None was given. In Plaintiff's opinion, mediation should be cancelled and the case reactivated immediately because further mediation is an utter waste of time.

**CERTIFICATE OF SERVICE**

I certify that on 09/11/2020, I served a copy of this settlement conference statement on each of the other parties by emailing to:

Timothy G. Elliott  
ELLIOTT RIQUELME & WILSON LLP  
1133 NW Wall Street, Suite 105  
Bend, OR 97703  
*Of Attorneys for County*

Gregory S. Hathaway  
HATHAWAY LARSON LLP  
1331 NW Lovejoy Street, Suite 950  
Portland, OR 97209  
*Of Attorneys for DeMonte*

(Name(s) of other party or their attorney)

Signed: \_\_\_\_\_



Representing: Plaintiff-Appellant Three Rivers Landowners Association

Date: 09/11/2020