

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

RICHARD ALLEN CLARIDGE, CAPRI
LYNN WINSER, TODD MICHERO, LORI
MICHERO, BROOKE SAMPLE, SCOTT A.
WALKER, and ELIZABETH L. WALKER, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

TIMOTHY J. LEFEVER, KENNETH W.
MATTSON, LEFEVER MATTSON, INC., KS
MATTSON PARTNERS, LP, LEFEVER
MATTSON I, LLC, HOME TAX SERVICE OF
AMERICA, INC. (d/b/a LEFEVER MATTSON
PROPERTY MANAGEMENT), DIVI DIVI
TREE, LP, and SPECIALTY PROPERTIES
PARTNERS, LP,

Defendants.

Case No. 4:24-cv-04093-JST

**JOINT CASE MANAGEMENT
STATEMENT**

Pursuant to the Court’s Order dated August 28, 2024 (ECF No. 46), the Standing Order for All Judges of the Northern District of California, and Civil Local Rules 16-9 and 16-10, Plaintiffs Richard Allen Claridge, Capri Lynn Winsor, Todd Michero, Lori Michero, Brooke Sample, Scott A. Walker, and Elizabeth L. Walker (“Plaintiffs”); Defendant Timothy J. LeFever (“LeFever”); and Defendants Kenneth W. Mattson (“Mattson”), KS Mattson Partners LP, and Specialty Properties Partners, LP (together, the “Mattson Defendants”)¹ submit this Joint Case Management Statement.

I. MOTIONS

On September 16, 2024, the Mattson Defendants filed their motion to dismiss the Complaint. ECF No. 56. On September 19, 2024, Defendant LeFever filed his motion to dismiss. ECF No. 57. On September 26, 2024, the Court entered the parties’ stipulation regarding briefing on the motions to dismiss. ECF No. 61. Pursuant to that order, Plaintiffs shall file a single consolidated response to Defendants’ motions to dismiss, or otherwise amend the Complaint, no later than October 17, 2024. *Id.* A hearing on Defendants’ motions to dismiss is set for December 5, 2024, at 2:00 pm. *See id.*; ECF No. 62.

No other motions are currently pending before the Court.

II. DISCOVERY

Pursuant to the Court’s order, discovery commenced on August 21, 2024. *See* ECF No. 46. On September 10, 2024, the Court entered the Parties’ Stipulated Protective Order (ECF No. 50) (“Protective Order”) and Stipulated Order Regarding Discovery of Electronically Stored Information and Hard Copy Documents (ECF No. 51) (“ESI Order”). On September 12, 2024, Plaintiffs, Defendant LeFever, and the Mattson Defendants each served initial disclosures pursuant to Rule 21(a)(1)(A).

¹ On September 12, 2024, Defendants LeFever Mattson, Inc. (“LeFever Mattson”), LeFever Mattson I, LLC, Home Tax Service of America, Inc. (d/b/a LeFever Mattson Property Management), and Divi Divi Tree, LP (together, the “LeFever Mattson Defendants”) and certain other affiliates filed voluntary petitions of for relief under the U.S. Bankruptcy Code. *See* ECF No. 58.

1 **A. Discovery Propounded By Plaintiffs**

2 Following commencement of this action, through letters dated July 10, 2024 and July 15,
3 2024, Plaintiffs served informal discovery requests covering nine categories of information for
4 the purposes of identifying the partnerships Defendants controlled, assessing the real property
5 assets that were recently sold or were being offered for sale by Defendants, evaluating
6 Defendants' current financial state, and determining appropriate next steps in the litigation. *See*
7 ECF No. 21-1 ¶¶ 2–3, Ex. A (July 10 Letter) & B (July 15 Letter). Thereafter, counsel for
8 Plaintiffs and the LeFever Mattson Defendants engaged in substantive discussions to facilitate the
9 expedited production of information, and on August 13, 2024, the LeFever Mattson Defendants
10 made an initial informal production of responsive documents to Plaintiffs. *See* ECF No. 31.

11 On August 23, 2024, following the Court's order commencing discovery, Plaintiffs served
12 their First Set of Requests for Production of Documents ("Plaintiffs' First Set of RFPs") on all
13 Defendants. Plaintiffs' First Set of RFPs is comprised of nine individual requests, seeking
14 substantially the same information Plaintiffs requested informally in July. On September 23,
15 2024, Defendant LeFever and the Mattson Defendants separately served their written responses
16 and objections to Plaintiffs' First Set of RFPs.

17 Counsel for Plaintiffs and Defendant LeFever met and conferred regarding LeFever's
18 responses and objections on October 4, 2024. The parties expect to continue meeting and
19 conferring regarding the collection, search, and production of responsive documents. Defendant
20 LeFever intends to make an initial production of documents responsive to Plaintiffs' First Set of
21 RFPs by no later than October 18, 2024.

22 Counsel for Plaintiffs and the Mattson Defendants met and conferred regarding the
23 Mattson Defendants' responses and objections on October 8, 2024. While they expect to
24 continue meeting and conferring regarding the collection, search, and production of responsive
25 documents, Plaintiffs and the Mattson Defendants have reached impasse as to the scope of
26 production. Specifically, the Mattson Defendants take the position that discovery should be
27 limited to entities "in which the named Plaintiffs claim to have a direct financial interest." *See*
28 Mattson Defs. Resps. to Plaintiffs' First Set of RFPs; *see also* ECF No. 56 (Mattson Defs. Mot. to

Dismiss) at 13 (arguing “Plaintiffs lack standing to pursue claims for investments in which they did not participate”). Plaintiffs seek documents relating to all entities associated with Plaintiffs’ allegations of the fraudulent investment scheme, including all Defendant-affiliated limited partnerships and limited liability companies. Plaintiffs therefore request that the Court set a schedule to brief a motion to compel, or otherwise refer the case to a Magistrate Judge for discovery purposes. Under the circumstances here, prompt resolution of the parties’ discovery dispute is necessary to avoid prejudice to Plaintiffs.

As to documents the Mattson Defendants agree are responsive to Plaintiffs’ First Set of RFPs (i.e., only documents relating to the named Plaintiffs and the entities they believed they invested in), the Mattson Defendants intend to make an initial production by no later than October 31, 2024.

The Mattson Defendants believe setting a briefing schedule on a motion to compel would be premature. This discovery dispute arises from the question of whether the named Plaintiffs have standing to pursue claims for investments in which they did not participate. This same issue is currently before the Court through the Mattson Defendants’ Motion to Dismiss, (ECF No. 56), which the parties are currently briefing. Neither judicial economy nor efficiency would justify additional briefing on the same topic. Indeed where, as here, a defendant challenges the Court’s jurisdiction, a stay of all discovery is frequently granted. *Calvary Chapel San Jose v. Cody*, 2021 WL 5353883, at *1 (N.D. Cal. Nov. 12, 2021). And while the Mattson Defendants do not seek that relief, the same logic counsels against requiring the parties to fully brief a discovery dispute that may be mooted by resolution of the Motion to Dismiss. As Plaintiffs note, the Mattson Defendants are otherwise producing relevant documents and so waiting to resolve this discovery dispute until the Motion to Dismiss is resolved will not prejudice any party.

B. Discovery Propounded By Defendants

On August 23, 2024, Defendant KS Mattson Partners LP (“KS Mattson”) served on each Plaintiff (i) a First Set of Requests for Production of Documents, (ii) a First Set of Interrogatories, and (iii) a First Set of Requests for Admission. On September 23, 2024, Plaintiffs served their written responses and objections to each set of Defendant KS Mattson’s discovery requests. On

September 27, 2024, Plaintiffs made an initial production of responsive documents comprising approximately 2,680 pages. That same day, in response to the Mattson Defendants' request, Plaintiffs reproduced all documents they received from the LeFever Mattson Defendants as part of the informal production originally made on August 13, 2024. Plaintiffs anticipate making future productions on a rolling basis.

III. RELATED CASES

The parties are aware of the following related or potentially related cases:

- *McAbee v. LeFever Mattson Inc.*, No. CU24-04271 (Solano Cty. Super. Ct. filed June 4, 2024);
- *Hultman v. Mattson*, No. 4:24-cv-03381-JST (N.D. Cal. filed June 5, 2024);
- *Mattson v. LeFever*, No. 24CV011305 (Sacramento Cty. Super. Ct. filed June 6, 2024);
- *Wondra v. LeFever Mattson, Inc.*, No. 24CV011902 (Sacramento Cty. Super. Ct. filed June 17, 2024);
- *LeFever v. Mattson*, No. 24CV03485 (Sonoma Cty. Super. Ct. filed June 6, 2024);
- *Migliozzi v. Mattson*, No. 24CV03663 (Sonoma Cty. Super. Ct. filed June 20, 2024);
- *Tubley v. Mattson*, No. 24CV04329 (Sonoma Cty. Super Ct. filed July 23, 2024);
- *Arons v. Golden Tree, LLP*, No. 24PSCV02560 (Los Angeles Cty. Super. Ct. filed Aug. 8, 2024); and
- *Talley v. Mattson*, No. CU24-06576 (Solano Cty. Super. Ct. filed Aug. 30, 2024).

IV. RELATED BANKRUPTCY PROCEEDINGS

On August 6, 2024, Windscape Apartments, LLC, an entity directly or indirectly controlled by LeFever Mattson, filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of California (Santa Rosa Division). On September 12, 2024, LeFever Mattson and fifty-seven affiliated entities, limited partnerships, and limited liability companies—including all LeFever Mattson Defendants—also filed for Chapter 11 bankruptcy. On September 20, 2024, the

1 bankruptcy court entered an order directing the joint administration for procedural purposes of the
 2 LeFever Mattson affiliate Chapter 11 cases. These cases are now consolidated for procedural
 3 purposes before Bankruptcy Judge Charles Novack to be administered jointly under the case titled
 4 *In re LeFever Mattson, a California corporation, et al.*, Lead Case No. 24-10545 (Bankr. N.D.
 5 Cal.) (the “LeFever Mattson Bankruptcy Action”). *See* LeFever Mattson Bankruptcy Action,
 6 ECF No. 45. On October 2, 2024, two additional LeFever Mattson limited partnerships—
 7 Pinewood Condominiums, LP (“Pinewood”) and Ponderosa Pines, LP (“Ponderosa Pines”)—
 8 filed voluntary petitions for Chapter 11 bankruptcy; those proceedings have yet to be consolidated
 9 for procedural purposes into the LeFever Mattson Bankruptcy Action but have been assigned to
 10 Judge Novak. A hearing on the debtors’ motion to jointly administer the Pinewood and
 11 Ponderosa Pines cases with the LeFever Mattson Bankruptcy Action is set for hearing on October
 12 15, 2024, before Bankruptcy Judge Dennis Montali, sitting in for Judge Novack temporarily
 13 while Judge Novack is out of the district.

14 On October 9, 2024, pursuant to 11 U.S.C. § 1102(a), the United States Trustee appointed
 15 a seven-member Official Committee of Unsecured Creditors (“OCUC”), several of whom appear
 16 to be putative class members in this action. *See* LeFever Mattson Bankruptcy Action, ECF No.
 17 135. The OCUC has retained bankruptcy counsel.

18 The first meeting of creditors in the LeFever Mattson Bankruptcy Action will occur on
 19 October 21, 2024. LeFever Mattson Bankruptcy Action, ECF No. 128.

20 **V. SETTLEMENT AND ADR**

21 On September 30 2024, all parties and their respective counsel signed and filed ADR
 22 certifications. *See* ECF Nos. 63–71. While the parties have not agreed to engage in an ADR
 23 process at this time, they are willing to discuss with the Court ADR selection and options for
 24 resolution at the Court’s convenience.

25 **VI. SCHEDULING**

26 The parties request that the Court schedule a further case management conference in
 27 approximately 60 days.

Dated: October 15, 2024

/s/ Michael K. Sheen
Michael K. Sheen

Elizabeth J. Cabraser (SBN 83151)
Richard M. Heimann (SBN 63607)
Katherine Lubin Benson (SBN 259826)
Michael K. Sheen (SBN 288284)
LIEFF CABRASER HEIMANN
& BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111
Telephone: (415) 956-1000
Facsimile: (415) 956-1008
ecabraser@lchb.com
rheimann@lchb.com
kbenson@lchb.com
msheen@lchb.com

Joseph W. Cotchett (SBN 36324)
Blair V. Kittle (SBN 336367)
Vasti S. Montiel (SBN 346409)
David G. Hollenberg (SBN 325408)
COTCHETT, PITRE & McCARTHY, LLP
San Francisco Airport Office Center
840 Malcolm Road, Suite 200
Burlingame, CA 94010
Telephone: (650) 697-6000
Facsimile: (650) 697-0577
jcotchett@cpmlegal.com
bkittle@cpmlegal.com
vmontiel@cpmlegal.com
dhollenberg@cpmlegal.com

David S. Casey, Jr. (SBN 60768)
Frederick Schenk (SBN 86392)
Gayle M. Blatt (SBN 122048)
Jeremy K. Robinson (SBN 188325)
P. Camille Guerra (SBN 326546)
Michael J. Benke (SBN 271292)
CASEY GERRY SCHENK FRANCAVILLA
BLATT & PENFIELD LLP
110 Laurel St.
San Diego, CA 92101
Telephone: (619) 848-3544
Facsimile (619) 544-9232
dcasey@cglaw.com
fschenk@cglaw.com
gmb@cglaw.com
jrobinson@cglaw.com
camille@cglaw.com
mbenke@cglaw.com

Counsel for Plaintiffs and the Proposed Class and Subclass

/s/ Fredrick C. Crombie
Fredrick C. Crombie

Stanley G. Roman (SBN 87652)
Fredrick C. Crombie (SBN 244051)
Emily Lentz (SBN 348720)
COBLENTZ PATCH DUFFY & BASS LLP
1 Montgomery St, Suite 3000
San Francisco CA 94104
United States of America
Telephone: 415-772-5752
Facsimile: 415-989-1663
sroman@coblentzlaw.com
fcrombie@coblentzlaw.com
elentz@coblentzlaw.com

Attorneys for Defendant Timothy J. LeFever

/s/ John McHugh
John McHugh

Micheline N. Fairbank (SBN 226038)
FENNEMORE CRAIG, P.C.
425 Market Street, 26th Floor
7800 Rancharra Pkwy
Reno, NV 89511
Telephone: (775) 788-2210
Facsimile: (775) 786-1177
mfairbank@fennemorelaw.com

Daniel M. Reilly
John McHugh
Michael Robertson
Amy Jones
FENNEMORE CRAIG, P.C.
1700 Lincoln Street, Suite 2400
Denver, CO 80203
Telephone: 303-291-3200
Facsimile: 303-291-3201
dreilly@fennemorelaw.com
jmchugh@fennemorelaw.com
mrobertson@fennemorelaw.com
ajones@fennemorelaw.com

*Attorneys for Defendants Kenneth W. Mattson and
KS Mattson Partners, LP*

Attestation Pursuant to Local Rule 5-1(i)(3)

Pursuant to Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from each of the other signatories.

Dated: October 15, 2024

/s/ Michael K. Sheen
Michael K. Sheen