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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**

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

8 **I. MOTIONS**

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

16 No other motions are currently pending before the Court.

17 **II. DISCOVERY**

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

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27 ¹ On September 12, 2024, Defendants LeFever Mattson, Inc. (“LeFever Mattson”), LeFever
28 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

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

8 As to documents the Mattson Defendants agree are responsive to Plaintiffs’ First Set of
9 RFPs (i.e., only documents relating to the named Plaintiffs and the entities they believed they
10 invested in), the Mattson Defendants intend to make an initial production by no later than October
11 31, 2024.

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

24 **B. Discovery Propounded By Defendants**

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

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

6 **III. RELATED CASES**

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

- 8 • *McAbee v. LeFever Mattson Inc.*, No. CU24-04271 (Solano Cty. Super. Ct. filed
9 June 4, 2024);
- 10 • *Hultman v. Mattson*, No. 4:24-cv-03381-JST (N.D. Cal. filed June 5, 2024);
- 11 • *Mattson v. LeFever*, No. 24CV011305 (Sacramento Cty. Super. Ct. filed June 6,
12 2024);
- 13 • *Wondra v. LeFever Mattson, Inc.*, No. 24CV011902 (Sacramento Cty. Super. Ct.
14 filed June 17, 2024);
- 15 • *LeFever v. Mattson*, No. 24CV03485 (Sonoma Cty. Super. Ct. filed June 6, 2024);
- 16 • *Migliozzi v. Mattson*, No. 24CV03663 (Sonoma Cty. Super. Ct. filed June 20,
17 2024);
- 18 • *Tubley v. Mattson*, No. 24CV04329 (Sonoma Cty. Super Ct. filed July 23, 2024);
- 19 • *Arons v. Golden Tree, LLP*, No. 24PSCV02560 (Los Angeles Cty. Super. Ct. filed
20 Aug. 8, 2024); and
- 21 • *Talley v. Mattson*, No. CU24-06576 (Solano Cty. Super. Ct. filed Aug. 30, 2024).

22 **IV. RELATED BANKRUPTCY PROCEEDINGS**

23 On August 6, 2024, Windscape Apartments, LLC, an entity directly or indirectly
24 controlled by LeFever Mattson, filed a voluntary petition for relief under Chapter 11 of Title 11
25 of the United States Code in the United States Bankruptcy Court for the Northern District of
26 California (Santa Rosa Division). On September 12, 2024, LeFever Mattson and fifty-seven
27 affiliated entities, limited partnerships, and limited liability companies—including all LeFever
28 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.
28

1 Dated: October 15, 2024

/s/ Michael K. Sheen
Michael K. Sheen

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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