

WEINBERG WHEELER  
HUDGINS GUNN & DIAL



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Matthew L. Johnson (6004)  
JOHNSON & GUBLER, P.C.  
8831 W. Sahara Avenue  
Las Vegas, Nevada 89117  
Telephone: (702) 471-0065  
Facsimile (702) 471-0075  
[mjohnson@mjohnsonlaw.com](mailto:mjohnson@mjohnsonlaw.com)  
Bankruptcy Counsel for Debtor

D. Lee Roberts, Jr., Esq. (8877)  
Matthew I. Kramer, Esq. (15261)  
Sebastian Cribari, Esq. (15888)  
WEINBERG, WHEELER, HUDGINS,  
GUNN & DIAL, LLC  
6385 South Rainbow Blvd., Suite 400  
Las Vegas, Nevada 89118  
Telephone:(702) 938-3838  
Facsimile: (702) 938-3864  
[lroberts@wwhgd.com](mailto:lroberts@wwhgd.com)  
[scribari@wwhgd.com](mailto:scribari@wwhgd.com)  
*Counsel for Plaintiff 21<sup>st</sup> Century Communities Inc.,  
FCT-MM, LLC, and FCT-SM, LLC*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

21<sup>st</sup> CENTURY COMMUNITIES, INC., FCT-  
MM, LLC, and FCT-SM, LLC,

Plaintiffs

vs.

FALLBROOK CAPITAL SECURITIES  
CORPORATION; FMI ASSET  
MANAGEMENT, LLC; ROSE EATON, an  
individual; BRANDT BLANKEN, an individual;  
IDACORP FINANCIAL SERVICES, INC.;  
DOES I-X; and ROE CORPORATIONS I-X,

Defendants

Case No. 2:24-cv-00131-CDS-MDC

**ORDER GRANTING STIPULATION TO  
TRANSFER ACTION TO UNITED  
STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF TENNESSEE**

[ECF No. 11]

Plaintiffs 21<sup>st</sup> Century Communities, Inc., FCT-MM, LLC, and FCT-SM, LLC  
(collectively, "Plaintiffs"), and Defendants Fallbrook Capital Securities Corporation, FMI Asset  
Management, LLC, Rose Eaton, Brandt Blanken, and Idacorp Financial Services, Inc.  
(collectively, "Defendants") (together with Plaintiffs, the "Parties") by and through their respective  
undersigned counsel, hereby respectfully submit this Stipulation and Order to transfer this action  
to the United States District Court for the Western District of Tennessee.



**STIPULATION**

1  
2 WHEREAS, on September 22, 2021, Plaintiffs FCT-MM LLC and FCT-SM LLC  
3 (collectively “FCT Entities”) brought suit before the Chancery Court of Shelby County, Tennessee  
4 centered on allegations that Defendants improperly removed the FCT Entities’ from Forest Creek  
5 Townhomes LLC, a Tennessee limited liability company. Defendants promptly removed the  
6 Chancery Court Action to the United States District Court for the Western District of Tennessee,  
7 Case No. 2:21-cv-02593-MSN-cgc, as more specifically set forth in the pleadings (“Tennessee  
8 District Court Action”).

9 WHEREAS, each of the Plaintiffs have filed bankruptcy within the District of Nevada  
10 which have are being jointly administered in the 21<sup>st</sup> Century Communities, Inc., bankruptcy case  
11 with Case No. 23-12047-nmc (“Bankruptcy Case”).

12 WHEREAS, on January 3, 2024, Plaintiffs commenced an adversary proceeding against  
13 Defendants in the United States Bankruptcy Court for the District of Nevada, Case No. 24-01003-  
14 nmc, as more specifically set forth in the pleadings (the “Nevada Adversary Action”).

15 WHEREAS, on January 3, 2024, Plaintiffs filed their Motion to Withdraw the Reference  
16 of the Nevada Adversary Action with the United States Bankruptcy Court for the District of  
17 Nevada in Case No. 23-12047-nmc, at ECF 170, and in the Adversary Proceeding, Case No. 24-  
18 01003-nmc at ECF 5. That matter was docketed with this Court on January 8, 2024. (ECF No. 1).

19 WHEREAS, on January 11, 2024, the Bankruptcy Court in the Bankruptcy Case removed  
20 21<sup>st</sup> Century from possession and Subchapter V Trustee, Brian D. Shapiro was provided with  
21 expanded powers in the Bankruptcy Case.

22 WHEREAS, on February 2, 2024, Defendants filed their Amended Motion to Dismiss or  
23 in the Alternative to Transfer to United States District Court for the Western District of Tennessee  
24 (the “Dismissal/Transfer Motion”) (ECF No. 7).

25 WHEREAS, on February 22, 2024, a resolution was reached in the Bankruptcy Cases  
26 which was placed on the record before the United States Bankruptcy Court for the District of  
27 Nevada. As part of such resolution and to avoid the further cost, uncertainty and delay attendant  
28 to the Dismissal/Transfer Motion, the Parties have stipulated to the transfer of the Nevada

1 Adversary Action to the United States District Court for the Western District of Tennessee so that  
2 the same court may adjudicate both the Tennessee District Court Action and the Nevada Adversary  
3 Action.

4 WHEREAS, as part of such resolution, the Parties have agreed to stay the Nevada  
5 Adversary Case and Tennessee District Court Action until the earlier of (a) the Bankruptcy Case  
6 being dismissed; or (b) the Bankruptcy Court entering an order terminating the automatic stay of  
7 the Tennessee District Court Action.

8 WHEREAS, all parties reserve their rights after transfer of the Nevada Adversary Case to  
9 filing any applicable pleading including but not limited to (1) filing a motion to dismiss, (2) filing  
10 a motion to consolidate the Nevada Adversary Case and Tennessee District Court Action, (3) filing  
11 a motion to amend the complaint subsequent to the parties completing mediation in accordance  
12 with the Binding Points of Agreement. THEREFORE the Parties stipulate that this Stipulation is  
13 filed in good faith and is not intended to cause unnecessary delay. The convenience of the parties  
14 favors transfer to the Western District of Tennessee. Because the Tennessee District Court Action  
15 is already pending in Tennessee, it would be efficient for the parties and the Court to also transfer  
16 the Nevada Adversary Action to Tennessee. There is thus good cause to transfer the case to the  
17 Western District of Tennessee. The Parties waive no rights, claims, or defenses by this Stipulation.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IT IS, THEREFORE, HEREBY STIPULATED that the Nevada Adversary Action is transferred to the United States District Court for the Western District of Tennessee and the matter is stayed until the earlier of (a) the Bankruptcy Case being dismissed; or (b) the Bankruptcy Court entering an order terminating the automatic stay of the Tennessee District Court Action.

**IT IS SO STIPULATED.**

Dated this 1<sup>st</sup> day of March, 2024.

/s/ Matthew I. Kramer  
D. Lee Roberts, Jr., Esq.  
Matthew I. Kramer, Esq.  
Sebastian Cribari, Esq.  
WEINBERG, WHEELER, HUDGINS,  
GUNN & DIAL, LLC  
6385 S. Rainbow Blvd., Suite 400  
Las Vegas, NV 89118

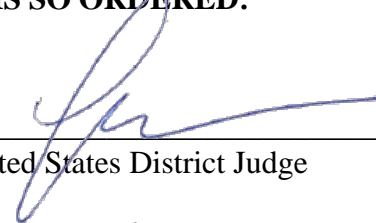
*Counsel for Plaintiffs 21<sup>st</sup> Century  
Communities, Inc., FCT-SM, LLC, and  
FCT-MM, LLC*

Dated this 1<sup>st</sup> day of March, 2024.

/s/ R. Christopher Reade  
Timothy S. Cory, Esq.  
Nevada Bar No. 001972  
R. Christopher Reade, Esq.  
Nevada Bar No. 006791  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, Nevada 89128  
(702) 794-4411

*Attorneys for Defendants IDACORP  
FINANCIAL SERVICES, INC., FALLBROOK  
CAPITAL SECURITIES CORPORATION,  
FMI ASSET MANAGEMENT, LLC and ROSE  
EATON*

**IT IS SO ORDERED:**

  
\_\_\_\_\_  
United States District Judge

Dated: March 4, 2024