

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA, ex rel.
ANDREW ELLIS, HARRIET ELLIS, and
MICHAEL W. BLODGETT,

Case No. 11-CV-0416 (PJS/TNL)

Plaintiff-Relators,

ORDER

v.

CITY OF MINNEAPOLIS, a municipal
corporation; CITY OF ST. PAUL, a
municipal corporation; METROPOLITAN
COUNCIL, as an entity requesting and
receiving HUD, CDBG, HOME and other
federal funds; and JOHN AND JANE DOES,
individually, jointly, and severally,

Defendants.

In February 2011, relators Andrew Ellis, Harriet Ellis, and Michael W. Blodgett brought this action pursuant to the False Claims Act (“FCA”), 31 U.S.C. §§ 3729-3733. The original complaint was interminably long and largely incomprehensible, and it failed to comply with the Federal Rules of Civil Procedure in other respects. Accordingly, on December 21, 2012, the Court ordered that relators “file an amended complaint that complies with Rule 8, Rule 11, and all other procedural rules no later than January 31, 2013” if they wished to continue litigating this matter. ECF No. 125 at 5. Of note, the Court ordered relators to file “an amended *complaint*” — singular.

Relators did not comply with the Court’s order, adding to the long list of instances in which they have been unwilling or unable to comply with the orders of this Court, the local rules of this District, and the Federal Rules of Civil Procedure. Without moving to sever or otherwise

seeking leave of the Court, relators took it upon themselves to file *two* amended complaints — one filed by the Ellises [ECF No. 127] and another filed by Blodgett [ECF No. 129].

The Court strikes these amended complaints, as the parties did not have the permission of the Court to split this action into two actions. The Court also warns relators that the Court's patience with them is nearing an end. Both relators and their attorneys are close to having this action dismissed — and to having monetary sanctions imposed on them — for their repeated failures to follow the orders of this Court and the applicable procedural rules.

This is relators' last chance: If relators wish to proceed with this case, they must *jointly* file a *single* amended complaint by February 28, 2013. Once again, the amended complaint must not exceed 10,000 words and must comply with Rule 8, Rule 11, and all other procedural rules.

If a relator believes that some legal impediment stands in the way of their jointly filing a single amended complaint, then that relator must file a motion to sever by February 28, 2013. If such a motion is filed, it will be addressed in the first instance by Magistrate Judge Tony N. Leung.

Relators are warned, however, that the Court is highly unlikely to permit them to pursue two separate lawsuits, particularly in light of the fact that the FCA authorizes only *one* lawsuit to be brought “based on the facts underlying the pending action.” 31 U.S.C. § 3730(b)(5). Relators filed this action jointly, and they will have to figure out a way to prosecute this action jointly, with or without the intervention of Judge Leung.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS
HEREBY ORDERED THAT:

1. The amended complaint of relators Andrew Ellis and Harriet Ellis [ECF No. 127] is STRICKEN.
2. The amended complaint of relator Michael W. Blodgett [ECF No. 129] is STRICKEN.
3. Defendants' motion for an extension of time to file an answer or otherwise respond to the amended complaints [ECF No. 132] is DENIED AS MOOT.
4. This action will be dismissed with prejudice unless relators file either an amended complaint or a motion to sever no later than February 28, 2013.

Dated: February 15, 2013

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge