This opinion is nonprecedential except as provided by Minn. R. Civ. App. P. 136.01, subd. 1(c).

STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0054

State of Minnesota, et al., ex rel. Richard Knudsen,
Appellant,

vs.

AT&T Mobility National Accounts, LLC,
Respondent,

T-Mobile USA, Inc.,
Respondent,

Sprint Solutions, Inc.,
Respondent,

Cellco Partnership, d/b/a Verizon Wireless,
Respondent.

Filed December 27, 2021
Affirmed
Smith, Tracy M., Judge

Hennepin County District Court
File No. 27-CV-18-16765

Tejinder Singh (pro hac vice), Goldstein & Russell, P.C., Bethesda, Maryland; and

John G. Albanese, Berger Montague PC, Minneapolis, Minnesota (for appellant)

Aaron D. Van Oort, Jeffrey P. Justman, Faegre Drinker Biddle & Reath LLP, Minneapolis, Minnesota (for respondent AT&T Mobility National Accounts, LLC)

Steve Y. Koh (pro hac vice), Perkins Coie LLP, Seattle, Washington; and

S. Jamal Faleel, Blackwell Burke, P.A., Minneapolis, Minnesota (for respondent T-Mobile USA, Inc.)

William P. Ashworth (pro hac vice), Williams & Connolly LLP, Washington, District of Columbia; and

Donald G. Heeman, Jessica J. Nelson, Randi J. Winter, Spencer Fane LLP, Minneapolis, Minnesota (for respondent Sprint Solutions, Inc.)

Libretta P. Stennes, Lindsey N. Schmidt, Greenberg Traurig, LLP, Minneapolis, Minnesota; and

Mathew S. Rosengart (pro hac vice), Greenberg Traurig, LLP, Los Angeles, California (for respondent Verizon Wireless)

Considered and decided by Smith, Tracy M., Presiding Judge; Slieter, Judge; and Gaïtas, Judge.

NONPRECEDENTIAL OPINION

SMITH, TRACY M., Judge

Appellant-relator Richard Knudsen challenges the dismissal of his qui tam claims against respondents—four wireless-communication-service providers—under the Minnesota false claims act (MFCA), Minn. Stat. §§ 15C.01-.16 (2020). Knudsen argues that the district court erred by determining that (1) his claims were not pleaded with particularity as required under Minnesota Rule of Civil Procedure 9.02; (2) his amended complaint failed to state a claim upon which relief can be granted; (3) the public-disclosure bar in the MFCA precludes most of his claims; and (4) the claim against one respondent was precluded by Knudsen's failure to file his amended complaint under seal as required by the MFCA.

Because we conclude that Knudsen's amended complaint fails to satisfy the requirement to plead his claims with particularity, we affirm.

FACTS

This case involves contracts between the State of Minnesota and AT&T Mobility National Accounts, LLC (AT&T), T-Mobile USA, Inc. (T-Mobile), Sprint Solutions, Inc. (Sprint), and Cellco Partnership, d/b/a Verizon Wireless (Verizon) (collectively, the carriers) for the provision of wireless-communication services to state and local governmental entities. The essence of Knudsen's claim is that the carriers promised to provide services to the state at the most favorable rates available but did not do so. Knudsen alleges that the carriers violated the MFCA in two ways: (1) by fraudulently inducing the state to enter into the contracts with them and (2) by making false certifications to the state by presenting bills that were not based on the most favorable rates. The state has declined to intervene in this case and is not a party.

At issue is the legal sufficiency of Knudsen's amended complaint, and we look to it for the factual allegations made to support Knudsen's claims.[1] According to the amended complaint, Knudsen worked as a consultant in the wireless industry from 2008 to 2018. Knudsen alleges that, as a consultant, he analyzed hundreds of rate plans and contracts, worked directly with companies and government entities regarding wireless services, and assisted all the carriers at some point. It is through this work that Knudsen claims that he learned of some of the carriers' often-confidential rate plans and saw that the rates they

[1] When reviewing a dismissal for failing to state a claim, we accept as true all facts as alleged in the complaint and construe all reasonable inferences in favor of the nonmoving party. *See Walsh v. U.S. Bank, N.A.*, 851 N.W.2d 598, 606 (Minn. 2014).

were offering to certain corporate customers were superior to those offered to government customers.

Knudsen alleges that the carriers violated the MFCA in relation to two sets of contracts that the carriers entered into with the Minnesota Office of State Procurement (OSP). The first set consists of contracts that OSP negotiated directly with three of the carriers, Sprint, Verizon, and AT&T, which became effective in 2012 (the Minnesota contracts); T-Mobile is not a party to the Minnesota contracts. The second set consists of contracts that OSP entered into with all four carriers in 2018 through a state purchasing consortium called the Western States Contracting Alliance (the WSCA contracts). Both the Minnesota contracts and the original WSCA master agreements on which Minnesota's WSCA contracts were based were developed following a request for proposal (RFP),[2] the terms of which were to be integrated into the final contracts along with any agreed-upon modifications.

The Minnesota Contracts

At issue in the Minnesota contracts is a provision regarding price decreases. The RFP provision stated as follows:

> **PRICE DECREASES**. During the life of the Contract, any or all temporary price reductions, promotional price offers, introductory pricing, or any other offers or promotions that provide prices lower than or discounts higher than those stated in the Contract, must be given immediately to the entities eligible to purchase from the Contract. Invoices for goods

[2] An RFP is an announcement of a project used to solicit proposals from contractors. The RFPs here described the government's needs for communications services, outlined the proposed contract terms, and communicated the negotiation-and-final-contract process.

> ordered or shipped or services performed during the decrease, or promotion, must immediately reflect such pricing.

Under the RFP, the responding contractor was presumed to agree with the RFP's terms unless the responding contractor brought deviations to the attention of the state.

During the negotiation process with the three carriers, the price-decreases clause was modified. Among the changes was the deletion of the phrase "introductory pricing." The language in the final contract stated that

> any or all temporary price reductions, promotional price offers, or any other offers or promotions that provide prices lower than or discounts higher than those stated in the Contract, must be given immediately to the [state] . . . if the prices given are based on similar and comparable purchases.

Sprint, Verizon, and AT&T signed the Minnesota contracts in 2012, and the contracts became effective on July 1, 2012. Knudsen alleges that, even as modified, the price-decreases clause obligated the three carriers to immediately offer the state "any offer of a lower price or higher discount" given to a third party for comparable products and services.

The WSCA Contracts

In 2018, OSP started to shift its contracts with wireless-communications carriers away from the Minnesota contracts. That year, all four of the carriers signed contracts with Minnesota through WSCA, the state consortium that had negotiated contracts with the four carriers.[3] Knudsen's claims relate to the provisions of the WSCA master agreements on

[3] Sprint signed on March 13, 2018, AT&T on March 23, 2018, T-Mobile on April 25, 2018, and Verizon on October 2, 2018. Verizon's signing date was three days before the original complaint was filed. The claims against Verizon related to the WSCA contracts were added in the amended complaint.

which Minnesota's WSCA contracts were based, which, he alleges, require the provision of services at "the lowest cost available."

The WSCA master contracts were negotiated in 2011 and 2012, with the state of Nevada acting as the lead state on behalf of the consortium. The master contracts followed an RFP process. The RFP, released in 2011, provided that its terms would be incorporated into the contract unless the carrier expressly excluded the provisions in its response. Following the negotiation process, each of the four carriers entered into a WSCA contract in 2012. In 2018, the 2012 WSCA contracts were incorporated into the WSCA contracts that the carriers entered into with Minnesota.

Knudsen relies on three sections in the 2011 RFP that provided for the "lowest cost available." Section 3.1.2 provided that the carrier would provide "quality wireless voice services, wireless broadband services, equipment and accessories at the lowest cost available in a timely and efficient manner." In addition, section 3.5.1 provided that the carrier would provide wireless voice services at "the lowest cost available in a timely and efficient manner" and section 3.6.1 provided that the carrier would provide wireless broadband services at the "lowest cost available in a timely and efficient manner."

In responding to the 2011 RFP, three carriers submitted modifications to some or all of these sections. Sprint deleted section 3.5.1, noting that it does not offer "Most Favored Customer" clauses, and instead offered services that are "not unreasonably dissimilar" from "similarly situated customers." Sprint did not directly address sections 3.1.2 or 3.6.1. Verizon modified sections 3.5.1 and 3.6.1, stating that it would provide "quality wireless voice services" at "a fair and reasonable cost" but "not lowest cost." In

response to section 3.1.2, Verizon wrote: "Noted and Understood." AT&T modified sections 3.1.2 and 3.5.1, promising to provide "competitive prices" and "best value." AT&T did not modify section 3.6.1. T-Mobile made no changes to any of the three sections. Knudsen alleges that master contracts that resulted from this process—with or without the modifications to the three sections—required the carriers to provide the lowest cost available for all services and that that requirement was incorporated into the 2018 WSCA contracts entered into with Minnesota.

Alleged Failures to Offer Minnesota the Best Rates

In support of his MFCA claim, Knudsen in his amended complaint provides four examples in which the best rates that the carriers offered to Minnesota were compared to cheaper rates allegedly offered to other entities. These price lists are for voice services only—not for other services. Some of the plans that Knudsen alleges were offered to other entities precede—even by a number of years—the carriers' contracts here, but Knudsen alleges that it is standard in the industry for carriers to allow customers to maintain their rate plans until a better rate plan comes along.

Knudsen asserts that there is no reason why the carriers could not have offered the lower-cost price lists to Minnesota. He further alleges that the carriers knew that they were offering better rates to other entities than to Minnesota and thus knew that they were fraudulently not offering the lowest prices or best discounts to Minnesota, as allegedly required by the contracts.

Procedural History

Knudsen filed his original complaint against the four carriers under seal on October 5, 2018. The Minnesota Attorney General declined to intervene, and the case was unsealed on May 21, 2019. In response to the carriers' motions to dismiss, on January 31, 2020, Knudsen publicly filed an amended complaint that was not submitted to the attorney general for review. The amended complaint contained similar allegations to the original complaint, except for the addition of a claim against Verizon related to the WSCA contracts.

The carriers brought new motions on various grounds. The district court ruled on four bases for dismissal asserted by the carriers. First, the district court concluded that the amended complaint failed to state an MFCA claim with particularity, as required for fraud claims. Second, it concluded that the amended complaint failed to state a claim of knowingly engaging in conduct in violation of the MFCA because the contract terms were ambiguous and there was no other alleged evidence of the parties' understanding of the terms. Third, the district court determined that, with respect to all claims other than those related to voice services under the 2012 Minnesota contracts, Knudsen's claims were barred because the claims were previously publicly disclosed and he was not an original source of the information.[4] Finally, with respect to Verizon, the district court concluded that dismissal was warranted because Knudsen added the WSCA contract claim against

[4] The MFCA requires dismissal of an action if the allegations were previously publicly disclosed in certain settings, unless the person bringing the action was the original source of the information. Minn. Stat. § 15C.05(f).

Verizon in the amended complaint without following the MFCA procedural requirement of filing under seal pending review by the attorney general. The district court dismissed the amended complaint in its entirety.

Knudsen appeals.

DECISION

We begin our analysis by evaluating whether Knudsen's amended complaint states the elements of an MFCA claim with sufficient particularity as required by Minn. R. Civ. P. 9.02. We do so bearing in mind that we must accept all facts as alleged in the complaint as true and construe all reasonable inferences in favor of the nonmoving party. *See Walsh*, 851 N.W.2d at 606. We first outline the legal framework for Knudsen's claims under the MFCA, Minn. Stat. §§ 15C.01-.16.

The MFCA imposes civil liability on defendants who "wrongfully secure[] monies from the State." *Phone Recovery Servs., LLC v. Qwest Corp.*, 919 N.W.2d 315, 319 (Minn. 2018) (emphasis omitted); *see also* Minn. Stat. § 15C.02(a). Under the statute, an individual—called a relator—can bring claims to collect funds due to the government and retain a portion of the litigation proceeds if the suit is successful. *Phone Recovery Servs.*, 919 N.W.2d at 319. The MFCA mirrors the federal false claims act (FCA), 31 U.S.C. §§ 3729-3733 (2018). *Olson v. Fairview Health Servs. of Minn.*, 831 F.3d 1063, 1069 n.6 (8th Cir. 2016). Because federal cases are instructive when a Minnesota statute mirrors a federal one, federal cases interpreting the FCA are relevant to interpreting the MFCA. *See In re Commodore Hotel Fire & Explosion Case*, 318 N.W.2d 244, 246 (Minn. 1982).

Under the MFCA, a defendant who "knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval" to the government is civilly liable. Minn. Stat. § 15C.02(a)(1). Additionally, a defendant who "knowingly makes or uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim" in government dealings is also liable. *Id.* (a)(2). "Knowingly" requires actual knowledge or acting in deliberate ignorance or reckless disregard of the truth or falsity of the information. Minn. Stat. § 15C.01, subd. 3. The MFCA does not require specific intent to defraud, but mere negligence, inadvertence, or mistake will not be enough to have acted knowingly. *Id.* The Supreme Court has stated about the FCA that it "is not an all-purpose antifraud statute, or a vehicle for punishing garden-variety breaches of contract or regulatory violations." *Universal Health Servs., Inc. v. United States ex rel. Escobar*, 579 U.S. 176, 194(2016) (quotation and citation omitted).

Knudsen asserts that the carriers violated the MFCA under two theories—promissory fraud and false certification. Promissory fraud occurs when a defendant makes a promise with "no intention to perform at the time the promise was made." *Int'l Travel Arrangers v. NWA, Inc.*, 991 F.2d 1389, 1402 (8th Cir. 1993) (quoting *Hayes v. Northwood Panelboard Co.*, 415 N.W.2d 687, 690 (Minn. App. 1987), *rev. denied* (Minn. Jan. 28, 1988)). False certification occurs when a defendant submits a claim for payment that certifies compliance with a material contractual obligation and the defendant knows that it is not in compliance with that condition. *Escobar*, 579 U.S. at 190.

Knudsen contends that he pleaded the elements of each of his theories of fraud with the particularity required under Minn. R. Civ. P. 9.02. *See United States ex rel. Joshi v.*

St. Luke's Hosp., Inc., 441 F.3d 552, 556 (8th Cir. 2006) (applying Fed. R. Civ. P. 9(b) to complaints alleging FCA violations). The rule states, "In all averments of fraud or mistake, the circumstances constituting fraud or mistake shall be stated with particularity. Malice, intent, knowledge, and other condition of mind of a person may be averred generally." Minn. R. Civ. P. 9.02. The federal counterpart uses similar language: "a party must state with particularity the circumstances constituting fraud or mistake. Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally." Fed. R. Civ. P. 9(b). Federal cases interpreting rule 9(b) are thus instructive on the interpretation of rule 9.02. *See, e.g.*, *Commodore Hotel*, 318 N.W.2d at 246.

"To plead with particularity is to plead the ultimate facts or the facts constituting fraud." *Hardin Cnty. Sav. Bank v. Hous. & Redev. Auth. of Brainerd*, 821 N.W.2d 184, 191 (Minn. 2012) (citations and quotation marks omitted). A party must plead "facts underlying each element of the fraud claim." *Id.* A complaint satisfies rule 9(b) if it pleads "such facts as the time, place, and content of the defendant's false representations, as well as the details of the defendant's fraudulent acts, including when the acts occurred, who engaged in them, and what was obtained as a result." *Olson*, 831 F.3d at 1070 (citation omitted). The complaint must identify the "who, what, where, when, and how of the alleged fraud." *Id.* (citation omitted).

Application of Law to the Amended Complaint

With that background, we turn to the claims here. Knudsen argues that the carriers knowingly made false promises to provide Minnesota with the lowest-cost services.

Knudsen relies on the contracts themselves as evidence of the carriers' fraud. Because his claims depend on the contracts themselves, we examine their relevant provisions.

In the Minnesota contracts, which all of the carriers except T-Mobile signed, the price-decreases clause in the final contract provided that "any or all temporary price reductions, promotional price offers, or any other offers or promotions that provide prices lower than or discounts higher than those stated in the Contract, must be given immediately to the [state] . . . if the prices given are based on similar and comparable purchases." Knudsen relies on the "any other offers or promotions" language to argue that this clause applied to all pricing and required the carriers to provide the best prices at all times. The three carriers point to the words "temporary" and "promotional," arguing that this language would be unnecessary if the clause was meant to apply to all pricing. The three carriers also point to the deletion of "introductory prices" from the RFP provision as further demonstration that the final price-decreases clause does not apply to all pricing because that specific deletion would then be meaningless.

Regarding the WSCA contracts, the 2011 RFP that resulted in the master agreements used by Minnesota as the bases for its 2018 WSCA contracts provided that the carriers would provide services "at the lowest cost available in a timely and efficient manner" in three sections. T-Mobile responded to the RFP without changes to the three sections. The three other carriers responded with modifications to the lowest-cost language. Sprint promised to provide pricing that was not "unreasonably dissimilar" from others. Verizon promised to provide services "at a fair and reasonable cost . . . not lowest cost." AT&T said it would provide prices at the "best value."

Contract Ambiguity

The carriers argue that the Minnesota contracts and the WSCA contracts either do not require the lowest prices or are ambiguous. If the contracts are ambiguous, the carriers argue, Knudsen cannot allege an "objective falsehood," which, they contend, is essential to an MFCA claim. Knudsen counters that the contracts unambiguously require the lowest cost available—even with the modifications—and that, in any event, an ambiguous contract does not defeat MFCA liability as a matter of law.

The district court concluded, and we agree, that at least the Minnesota contracts and the WSCA contracts with three of the carriers are, at best, ambiguous. As for the Minnesota contracts, both interpretations advanced by the parties of the price-decreases provision are reasonable in light of the RFP provision and its modification in the final contracts. As for the WSCA contracts, the price-decreases provision in the Minnesota contracts with Sprint's, Verizon's, and AT&T's attempted modifications render the lowest-cost provisions related to voice and broadband services ambiguous as applied to these three carriers. None of the new language clearly promises to provide the lowest-cost services. Further, it is unclear if the carriers meant to cover all the lowest-cost provisions when they added the modified language. Thus, the WSCA contracts, at least where modified, are at best ambiguous as to whether the carriers promised to provide the lowest cost.

Contract ambiguity, however, does not necessarily mean that a claimant cannot adequately plead that a false promise was made. An ambiguous contract can still show that a defendant made a false promise if the relator can adequately plead that the defendant understood what the ambiguous contract required and *knew* that the promise was false. *See,*

e.g., *Minn. Ass'n of Nurse Anesthetists v. Allina Health Sys. Corp.*, 276 F.3d 1032, 1053 (8th Cir. 2002) (holding that an ambiguous regulation will not defeat an MFCA claim but that the relator must show what the defendant thought the regulation required); *United States ex rel. Druding v. Care Alts.*, 952 F.3d 89, 100 (3d Cir. 2020) (holding that "objectivity speaks to the element of *scienter*, not *falsity*"); *Winter ex rel. United States v. Gardens Reg'l Hosp. & Med. Ctr., Inc.*, 953 F.3d 1108, 1119 (9th Cir. 2020) (rejecting an "objective falsity" requirement of the FCA and clarifying that the Eleventh Circuit did not consider all subjective statements to be incapable of falsity).

The carriers point to several federal circuit court decisions to argue that an "objective falsehood" is required to sustain a claim under the FCA, but even those cases suggest that a claim could be made if there were additional evidence of fraud. *See United States v. AseraCare, Inc.*, 938 F.3d 1278, 1301 (11th Cir. 2019) (reasoning that an FCA claim requires a falsehood and that "the mere difference of reasonable opinion between physicians, *without more*, . . . does not constitute an objective falsehood" (emphasis added)); *see also United States ex rel. Wilson v. Kellogg Brown & Root, Inc.*, 525 F.3d 370, 378 (4th Cir. 2008) ("An FCA relator cannot base a fraud claim on *nothing more than* his own interpretation of an imprecise contractual provision." (emphasis added)).[5]

[5] As another example, the Seventh Circuit requires an "objective falsehood" under the FCA but noted that a contract subject to a disputed legal question could meet the objective-falsehood standard if the relator also presented evidence showing what the defendant thought it was agreeing to. *See United States ex rel. Yannacopoulos v. Gen. Dynamics*, 652 F.3d 818, 836-37 (7th Cir. 2011).

Thus, Knudsen's MFCA claims are not defeated merely because the contracts are ambiguous. Knudsen does, however, need to adequately plead the requisite scienter in order to show that the carriers knowingly made a false promise and then submitted false claims under that promise. The knowledge requirement is an essential element of an MFCA claim. *See* Minn. Stat. § 15C.02(a)(1). Because the knowledge requirement applies to all MFCA claims, it applies whether or not a contract is ambiguous. Thus, we need not determine whether T-Mobile's WSCA contract—which did not modify the 2011 RFP provisions regarding lowest available price—is ambiguous in order to evaluate whether the amended complaint pleads scienter with sufficient particularity.

Failure to Sufficiently Plead Knowledge

Knudsen alleges that, for some periods of time, the carriers offered better prices for voice services to other entities than those offered to Minnesota under the contracts. Even if these alleged facts could establish a breach of contract, Knudsen needs to do more than allege breach of contract, which is not actionable under the MFCA. *See, e.g.*, *Wilson*, 525 F.3d at 377 (concluding that the "inefficient management of [one's] contractual duties" is not an FCA claim); *Yannacopoulos*, 652 F.3d at 836 ("Although a breached contractual term may be considered a falsehood in a looser sense—a false promise—a mere breach of a contractual duty does not satisfy [the FCA]."). To bring an actionable MFCA claim, Knudsen needs to adequately plead scienter. Though scienter may be alleged generally, the relator cannot rely solely on broad legal conclusions. *See Bahr v. Capella Univ.*, 788 N.W.2d 76, 80 (Minn. 2010) (holding in a Minn. R. Civ. P. 8.01 case—which has a lesser standard for pleading—that a plaintiff "must provide more than labels and conclusions").

The amended complaint generally alleges that the carriers "knew they were not providing services to [the state] at the 'lowest cost available,'" and that they "knew what [the] contractual language required, and they knew that they were not abiding by it." These are broad conclusions of scienter; Knudsen does not allege a single fact in support of these allegations. With respect to his fraudulent-inducement claim, he asserts no contemporaneous facts showing that the carriers entered into the contracts with Minnesota with "no intention to perform" as promised. *See Int'l Travel Arrangers*, 991 F.2d at 1402; *cf. Ambassador Press, Inc. v. Durst Image Tech. U.S., LLC*, 949 F.3d 417, 423 (8th Cir. 2020) (affirming dismissal of a common-law fraud claim pursuant to Fed. R. Civ. P. 9(b) for failure to set forth supporting facts demonstrating an intention to defraud when the contractual promises were made). Regarding his false-certification claims, Knudsen alleges no facts showing that the carriers knew when they submitted a claim for payment that the claim is not in compliance with a contractual obligations *See Escobar*, 579 U.S. at 190-91. Knudsen's conclusory allegations are not enough under rule 9.02 for a claim under the MFCA.[6]

[6] After oral argument, the carriers notified the court of a recent Seventh Circuit opinion, *United States ex rel. Schutte v. Supervalu Inc.*, 9 F.4th 455, 464 (7th Cir. 2021) ("A defendant who acted under an incorrect interpretation of the relevant statute or regulation did not act with reckless disregard if (1) the interpretation was objectively reasonable and (2) no authoritative guidance cautioned defendants against it."). This case is distinguishable in that it deals with statutes and regulations, not a contract provision. But at a general level, it requires a relator to show what the defendant thought their obligation was under a statute, regulation, or contract if that obligation is unclear. Here, Knudsen has not alleged anything beyond conclusions of scienter.

Knudsen's allegations stand in stark contrast to claims in other cases, relied upon by Knudsen, where courts have found that a complaint sufficiently pleaded a claim under the FCA. In *United States ex rel. Heath v. AT&T, Inc.*, the D.C. Circuit Court of Appeals concluded that the relator had satisfied the pleading requirements of Fed. R. Civ. P. 9(b) for its FCA claim. 791 F.3d 112, 115 (D.C. Cir. 2015). The complaint in *Heath* offered substantially more factual support of the alleged fraudulent conduct than Knudsen's. The relator in *Heath* alleged that AT&T had a scheme to defraud schools and libraries by not enforcing federal regulations that required the provision of telecommunications at the lowest rates. *Id.* at 117. The complaint alleged that AT&T had previously been investigated for violating the regulatory requirement, that it had entered into a consent decree obligating it to institute a plan to ensure compliance, that AT&T had nevertheless chosen not to train its employees regarding the requirement, that AT&T employees therefore remained ignorant of the requirement until AT&T revamped its pricing scheme, and that for ten years AT&T consequently overbilled schools and libraries. *Id.* at 117-18. The complaint included copies of AT&T's training materials and alleged that an audit of AT&T's bills to one public school system revealed that—for five years—AT&T overbilled schools by at least $2.8 million. *Id.* at 124. The *Heath* court concluded that the complaint sufficiently pleaded "the fraud of which [AT&T] is accused: That, even in the wake of a consent decree . . . , [AT&T] persisted in knowingly or recklessly failing to comply with the lowest-corresponding-price requirement." *Id.* Knudsen's amended complaint asserts no similar facts to establish such a knowingly fraudulent scheme.

Knudsen also cites *Winter*, where the Ninth Circuit concluded that a complaint sufficiently alleged knowing misconduct under the FCA. 953 F.3d at 1120. But, again, the complaint alleged factual support for the knowing scheme. In that case, a former hospital administrator filed an FCA action alleging that the hospital submitted false Medicare claims certifying that patients' inpatient hospitalizations were medically necessary. *Id.* at 1115-16. The relator's job included reviewing the hospital's admissions for medical necessity. *Id.* at 1115. After a company that owned nursing homes acquired an ownership interest in the hospital's management company, the relator noticed an unusually high number of patients transported from those nursing homes and admitted into the hospital. *Id.* The relator studied the statistics, saw that the spike correlated with the acquisition, and determined that the increase resulted in an increase of admitted Medicare beneficiaries. *Id.* The relator attempted to bring her concerns to hospital management but received no response. *Id.* At a meeting in which management instructed staff not to question admissions, the relator alleged that a co-owner cut her off, using profanity, when the relator tried to speak up. *Id.* at 1115-16. The complaint alleged that the new owner and the hospital operator exerted pressure on physicians to admit patients, including Medicare recipients, and detailed 65 separate patient admissions that were not medically necessary. *Id.* It estimated over $1.2 million in false Medicare claims for a two-month period. *Id.* The Ninth Circuit concluded that the complaint stated a claim, including that the allegations supported an inference of scienter. *Id.* at 1120. In contrast, here, Knudsen only pleaded broad, general conclusions of scienter.

Knudsen does not allege any conversations, communications, or other evidence outside of the contracts, which included modifications to the RFPs, to demonstrate that the carriers fraudulently induced the state to enter into the contracts by knowingly promising to offer the lowest costs without intending to do so. For his claims of false certification, Knudsen again relies on the contractual provisions and also on his examples of lower prices that he alleges were offered to corporate customers for voice services only at some periods of time. But he alleges no conversations, communications, or other evidence to demonstrate that the carriers knowingly falsely certified compliance with their contracts. Again, a claim under the MFCA requires more than just a breach of contract, *see Escobar*, 579 U.S. at 194 (discussing the FCA), Minn. R. Civ. P. 9.02 demands that the elements of fraud claims must be pleaded with particularity, and a relator cannot solely rely on broad legal conclusions to allege scienter, *see Bahr*, 788 N.W.2d at 80.

Because the amended complaint fails to allege with particularity facts that would satisfy the knowledge element of an MFCA claim against the carriers, the district court did not err by dismissing the amended complaint. And, because dismissal is warranted on this ground, we need not address the other grounds relied on by the district court in dismissing the amended complaint.

Affirmed.