UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA, *ex rel.* COREY J. DELAHOUSSAYE	:	CIVIL ACTION NO.: 15-348
Plaintiff	:	SECTION: SDD-RLB
VERSUS	:	
STATE OF LOUISIANA GOVERNORS OFFICE OF HOMELAND SECURITY AND EMERGENCY PREPAREDNESS; LIVINGSTON PARISH; A. SHELBY EASTERLY, III; ALVIN FAIRBURN AND ASSOCIATES PROFESSIONAL ENGINEERING CONSULTANTS CORPORATION; INTERNATIONAL EQUIPMENT DISTRIBUTORS; BAROWKA AND BONURA ENGINEERS AND CONSULTING; MCLIN AND ASSOCIATE WENDELL ANTHONY	:	FILED IN CAMERA AND UNDER SEAL
Defendants	:	

MEMORANDUM IN SUPPORT OF
***EX PARTE* MOTION FOR AN EXTENSION OF TIME**

This is an action under the *qui tam* provisions of the False Claims Act (FCA) that permit a private party (Relator) to bring suit to recover damages allegedly suffered by the United States due to fraud. *See* 31 U.S.C. §3730. Under the FCA, the action remains under seal for at least sixty days, during which time the United States may elect to intervene, thereby assuming primary responsibility for prosecuting the case. The sixty-day period may, however, be extended upon application of the United States for good cause shown. This memorandum demonstrates why good cause exists in this case to extend the period for an additional 90 days so that the United States may complete its review and make an informed decision on whether to intervene.

Pro se Relator has been informed of the United States' request for a 90-day extension, and has represented that he has no objection.

BACKGROUND OF CASE

Pursuant to 31 U.S.C. § 3730(b), Relator in this case, Corey Delahoussaye, filed a complaint against State of Louisiana Governor's Office of Homeland Security and Emergency Preparedness, Livingston Parish, A. Shelby Easterly, Alvin Fairburn and Associates, Professional Engineering Services, International Equipment Distributors, Barowksa and Bonura Engineers, and Consulting, and McLin and Associates and Wendell Anthony (Defendants), whom he alleges knowingly submitted, or caused to be submitted, false or fraudulent claims to the United States for debris removal in the aftermath of Hurricane Gustav. In his complaint, Relator alleges that Defendants defrauded the Federal Emergency Management Agency (FEMA) program by falsely claiming ineligible debris removal as reimbursable disaster related expenses.

On August 25, 2015, the United States Attorney's Office learned that Relator completed proper service on July 23, 2015. Immediately thereafter, Relator's complaint, exhibits, and disclosure statement were distributed to counsel for the United States Department of Justice in Washington, D.C. as well as the United States Attorney's Office for the Middle District of Louisiana. Copies of these documents were also provided to the appropriate persons at FEMA and an investigatory team has been assembled.

Over the course of the last four weeks, the United States has been diligently working with FEMA to thoroughly review the 217 page complaint and the 266 exhibits referenced in the complaint that were attached to the disclosure statement in order to comprehensively evaluate and determine the scope of Relator's allegations. Once that task is completed, it is necessary to examine all materials maintained by FEMA, including contracts, regulatory

guidelines and policies governing funding for this project, and eligibility determinations of funding requests made to FEMA by the defendants, in connection with the subject debris removal project.

Additionally, the United States is attempting to verify any overlap between Relator's claims and claims made the subject of arbitration proceedings between FEMA and the defendant, Livingston Parish, which is referenced in Relator's Complaint. (Complaint, p. 9.) Specifically, it is necessary to determine whether any of the false claims alleged by Relator have been investigated, addressed, and/or resolved within the arbitration proceedings and the two appeals subsequent thereto.

All of the foregoing facts serve to underscore the need for an extension of time to conduct a proper investigation into this matter. An extension of time will provide the United States the time necessary to undertake the comprehensive review and analysis discussed above in order to make the necessary determinations of the merits of Relator's claims. Therefore, the United States requests an additional 90 days to continue its evaluation of the information contained in Relator's complaint, and to conduct the type of investigation necessary to make a well-reasoned decision concerning intervention or dismissal of this action.

DISCUSSION

The FCA expressly permits extensions of time to allow the United States to evaluate the allegations in a *qui tam* complaint and to make an informed decision as to whether to intervene in the action. The FCA's *qui tam* provisions provide that:

> (2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government pursuant to Rule 4(d)(4) of the Federal Rules of Civil Procedure. The complaint shall be filed in camera, shall remain under seal for at least 60 days, and shall not be served on the defendant until the court so

> orders. The United States may elect to intervene and proceed with the action within 60 days after it receives both the complaint and the material evidence and information.
>
> (3) *The Government may, for good cause shown, move the court for extensions of the time during which the complaint remains under seal under paragraph (2).*

31 U.S.C. §§ 3730(b)(2) and (3) (emphasis added).

Based upon a showing of good cause, the FCA thus clearly permits extensions of time to allow the United States to complete its evaluation of Relator's allegations contained in the complaint and the disclosure statement in order to reach an informed decision as to whether or not to enter its appearance in the case. The United States respectfully suggests that, as set forth above, "good cause" under the FCA for an extension of time has been demonstrated.

The United States also requests an order keeping the complaint and other documents and filings in this case under seal during the time period of the requested extension. Keeping the *qui tam* complaint otherwise under seal during the investigation ensures that the United States has an adequate opportunity to evaluate the allegations and determine both whether the suit involves matters the United States has already investigated and whether it is in the United States' interest to intervene and take over the civil action. This sound reasoning supports the continuing need to keep the complaint in this action under seal pending completion of the investigation and analysis necessary in this case.

CONCLUSION

For all of the above reasons, the United States respectfully requests that the Court grant its application for an extension of time up to and including December 20, 2015, during which time the complaint and other documents and filings in this matter shall remain under seal, and during which the United States may evaluate its decision whether to intervene in the action.

Respectfully submitted,

UNITED STATES OF AMERICA, by

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