

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ESTATE OF JAY HEIDBREDER, Relator,
UNITED STATES OF AMERICA,
STATE OF CALIFORNIA and
STATE OF MINNESOTA,

Plaintiffs,

v.

SUPERVALU, INC.,

Defendant.

ORDER

08-cv-578-bbc

On March 21, 2012, I issued an order on defendant Supervalu Inc.'s motion to dismiss the second amended complaint filed by intervenor plaintiffs United States, California and Minnesota in this False Claims Act case. In that order, I amended the caption, removing the relator, Estate of Jay Heidbreder, as a plaintiff. I noted that the relator had not filed an amended complaint after its previous complaint was dismissed and had no claims remaining in the case.

The relator has filed a motion for reconsideration, dkt. #130, contending that it should be allowed to continue as a party to this action under § 3730(c)(1) of the False Claims Act. Under that provision, if the government files a complaint that supersedes the relator's complaint, the government "shall have the primary responsibility for prosecuting

the action, and shall not be bound by an act of the person bringing the action.” 31 U.S.C. § 3730(c)(1). However, the relator “shall have the right to continue as a party to the action. . . .” Id.

It was error to dismiss the relator as a party to the case. As I explained in a previous order dismissing the relator’s complaint, the relator “can remain a party to the action and can help pursue the claims asserted by the United States against defendant. . . .” Dkt. #104 at 44. Therefore, I will grant the relator’s motion for reconsideration and amend the caption accordingly.

ORDER

IT IS ORDERED that relator Estate of Jay Heidbreder’s motion for reconsideration, dkt. #130, is GRANTED.

Entered this 9th day of April, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge