

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

IN RE MCNEIL AND ELLIS PRE-FILING)
INJUNCTION) Case No. 1:18-mc-00011-CRC
)
UNITED STATES OF AMERICA,)
)
Movant,)
)
v.)
)
MICHAEL B. ELLIS, ROBERT A. MCNEIL,)
)
Respondents.)
_____)

AMENDED ORDER OF PERMANENT INJUNCTION

This matter came on for a hearing on March 1, 2018, on the Court’s Order to Show Cause why Counterclaim Defendants Should Not Be Held in Contempt for violation of April 19, 2017 Order of Permanent Injunction [44] entered in Crumpacker v. Ciraolo-Klepper, et al., No. 16-cv-01053 (D.D.C.). The Court, having heard from counsel for the United States and from respondents Michael B. Ellis and Robert A. McNeil, having considered the statements and arguments made before the Court at the March 1, 2018 hearing, as well as entire record in Crumpacker v. Ciraolo-Klepper, et al., No. 16-cv-01053 (D.D.C.),¹ hereby expands the April 19,

¹ McNeil and Ellis assisted in the filing of six other lawsuits for other plaintiffs that are duplicative of the previously-dismissed actions: DePolo v. Commissioner, et al., 1:15-cv-02039; Dwaileebe v. Martineau, et al., No. 1:16-cv-00420, Crumpacker v. Ciraolo-Klepper, et al., No. 1:16-cv-01053; Morris v. McMonagle, et al., No. 1:16-cv-1384; McGarvin v. McMonagle, et al., No. 1:16-cv-1458, Podgorny v. McMonagle, et al., No. 1:16-cv-1768 and DeOrio v. Ciraolo-Klepper, et al., No. 1:16-cv-2089. The Court also is aware that Ellis and McNeil have assisted in the filing of a seventh case, Ford v. Ciraolo-Klepper, et al., 1:17-cv-00034, in the Eastern District of California raising duplicative claims; that action was dismissed for lack of subject matter (continued...)

2017 Order of Permanent Injunction to prohibit the filing of any suits after March 1, 2018 against judicial officers without first obtaining leave of court to permit such filing.

In support of this amended injunction, the Court incorporates by reference (i) the Memorandum Opinion [43] granting the United States' Motion for Permanent Injunction [30]; and (ii) the factual findings and conclusions of law in its original Order of Permanent Injunction [44].

Further, McNeil and Ellis have been given notice and opportunity to be heard, both by responding to the United States' original motion for permanent injunction, and at the show cause

(... continued)

jurisdiction (2017 WL 2189577 (E.D. Cal. May 18, 2017)). The Court is also aware that Ellis and McNeil have filed two more lawsuits in this district in which they are named plaintiffs: Ellis v. Jackson, et al., No. 1:16-cv-2313 and Stanley, et al. v. Lynch, et al., No. 1:17-cv-00022, that raise the same duplicative claims. Those cases were consolidated and are pending. On August 28, 2017, McNeil and Ellis filed a lawsuit in this district against judicial officers of the United States District Court for the District of Columbia, in their personal capacities. This case, McNeil, et al. v. Harvey, et. al., No. 17-1720 (D.D.C.), seeks declaratory relief against United States District Court judges who dismissed DeOrio v. Ciraolo-Klepper, et al., No. 1:16-cv-2089 (D.D.C.), Crumpacker v. Ciraolo-Klepper, et al., No. 1:16-cv-01053 (D.D.C.), Dwaileebe v. Martineau, et al., No. 1:16-cv-00420 (D.D.C.), Morris v. McMonagle, et al., No. 1:16-cv-1384 (D.D.C.), Podgorny v. McMonagle, et al., No. 1:16-cv-1768 (D.D.C.), Ford v. Ciraolo-Klepper, et al., No. 1:17-cv-00034 (E.D. Cal.), and the United States Magistrate Judge who recommended that the United States' motion to dismiss be granted in Ellis v. Jackson, et al., No. 1:16-cv-2313 (D.D.C.) and Stanley, et al. v. Lynch, et al., No. 1:17-cv-00022 (D.D.C.). On November 29, 2017, McNeil and Ellis filed another lawsuit in this district against judicial officers of the United States Court of Appeals for the District of Columbia Circuit, in their personal capacities. This case, McNeil, et al. v. Brown, et al., No. 1:17-cv-02602 (D.D.C.), seeks declaratory relief against the judges of the Court of Appeals that summarily affirmed the district courts' dismissals in Ellis v. Commissioner, U.S.C.A. No. 15-5035, McNeil v. Commissioner, U.S.C.A. No. 16-5233, DePolo v. Commissioner, et al., U.S.C.A. No. 16-5308, Crumpacker v. Ciraolo-Klepper, et al., U.S.C.A. No. 17-5054, McGarvin v. McMonagle, et al., U.S.C.A. No. 17-5056, Podgorny v. McMonagle, et al., U.S.C.A. No. 17-5057, DeOrio v. Ciraolo-Klepper, et al., U.S.C.A. No. 17-5057, and Dwaileebe v. Martineau, et al., U.S.C.A. No. 17-5058.

hearing on March 1, 2018. Smith v. Scalia, 44 F. Supp. 3d 28, 46 (D.D.C. 2014). The Court has developed an adequate record of review and finds that McNeil and Ellis's lawsuits against the United States, its officers and employees, and judicial officers, are duplicative, frivolous, and harassing. *In re Powell*, 851 F.2d 427, 434 (D.C. Cir. 1988).

The requirement that respondents McNeil and Ellis seek leave of court before filing further challenges concerning the preparation of tax returns or the collection of taxes is appropriate and does not unduly impair their constitutional right of access to the courts. Urban v. United Nations, 768 F.2d 1497, 1500 (D.C. Cir. 1985), Davis v. United States, 569 F. Supp. 2d 91, 98-99 (D.D.C. 2008).

Accordingly, it is hereby **ORDERED** that:

(1) Counterclaim defendants Michael B. Ellis, and Robert A. McNeil be permanently enjoined from:

a. Filing, or assisting in the filing of, any civil action in any United States District Court, without first obtaining leave of that court, asserting, or purporting to assert a claim under the United States Constitution or the Administrative Procedure Act challenging actions taken by the Internal Revenue Service in preparing to assess and assessing income tax liabilities pursuant to 26 U.S.C. § 6020;

b. Filing, or assisting in the filing of, any civil action in any United States District Court, without first obtaining leave of that court, asserting or purporting to assert a claim under the United States Constitution or the Administrative Procedure Act challenging actions taken by the Department of Justice to defend against the suits referenced in paragraph 1(a) and/or suits to collect income tax liabilities;

c. Filing, or assisting in the filing of, any civil action in any United States District Court, without first obtaining leave of that court, asserting or purporting to assert claims against judicial officers, whether in their official or personal capacities, challenging the merit, the substance, and/or the process of those judicial officers' decisions with respect to the Internal Revenue Service's program for preparing to assess and assessing income tax liabilities pursuant to 26 U.S.C. § 6020(b);

(2) In order to seek prior leave of court to file an action referenced in paragraph 1, the counterclaim defendants shall, before filing any complaint or other initiating document, file with the court a document titled "Application Pursuant to Court Order Seeking Leave to File," that: (i) certifies that the claims presented are new claims never before raised and disposed of on the merits on or jurisdictional grounds by any court; (ii) describes the allegations of the complaint; and (iii) contains a certification under penalty of contempt that the allegations of the complaint are true; and (iv) attaches a copy of this injunction. The counterclaim defendants shall not be permitted to file said action unless and until such application is granted.

(3) Counterclaim Defendant Robert A. McNeil shall post a copy of this amended injunction on his website, <http://ram-v-irs.com>.

(4) The United States may engage in post-judgment discovery to monitor compliance with the injunction.

(5) The Court shall retain jurisdiction over the counterclaim defendants and this action for the purpose of implementing and enforcing this injunction and any additional orders necessary and appropriate to the public interest.

(6) The United States may provide actual notice of the injunction entered in this action pursuant to Rule 65(d)(2) by sending a true and correct copy thereof to the counterclaim

defendants by registered or certified mail, return receipt requested, or by other private courier, such as Federal Express, to the address for respondents reflected on the Court's docket sheet for this matter and by filing a certificate of service that certifies the United States' compliance with this provision.

Date

HON. CHRISTOPHER R. COOPER
United States District Judge