
Today, the Supreme Court unanimously held that a private relator may bring a False Claims Act lawsuit up to three years after the responsible “official of the United States” has actual or constructive knowledge of the relevant facts, as long as the suit is not filed more than ten years after the violation was committed. The unanimous Court also held that the relator is not an “official of the United States” for these purposes.

Background: The False Claims Act imposes civil liability on any person who presents a false or fraudulent claim for payment to the government. Under 31 U.S.C. § 3730, two types of plaintiffs may sue: the Attorney General; or a private person, known as a relator, who brings a *qui tam* action in the name of the United States. In an action filed by a relator, the government may choose to intervene. There are two limitations periods, found in 31 U.S.C. § 3731(b), that potentially apply to an action brought under Section 3730. A lawsuit must be brought within the later of (1) six years after the statutory violation occurred or (2) three years after “the official of the United States charged with responsibility to act in the circumstances” knew or should have known the relevant facts, but not more than ten years after the violation.

Issue: Whether the limitations period in 31 U.S.C. § 3731(b)(2) applies to a False Claims Act suit filed by a private relator when the federal government elects not to intervene and, if so, whether the relator in such an action can be treated as “the official of the United States” whose actual or constructive knowledge triggers the three-year limitations period under Section 3731(b)(2).

Court’s Holding: In an opinion by Justice Thomas, the Court held that Section 3731(b)(2) is available in a relator-initiated False Claims Act suit in which the government does not intervene and that the relator in such a case cannot be considered “the official of the United States” whose knowledge triggers the limitations period. As to the first point, the Court reasoned that the two limitations periods in Section 3731(b) apply to “civil action[s] under section 3730”; that both government-initiated and relator-initiated suits are “civil action[s] under section 3730”; and that “the plain text of the statute” thus “makes the two limitations periods applicable in both types of suits,” regardless of whether the government has chosen to intervene. As to the second point, the Court relied primarily on its conclusion that a private relator is not an “official of the United States” in the “ordinary sense” of that term.

Mayer Brown filed an *amicus* brief in support of petitioners on behalf of the Coalition for Government Procurement.