Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

Syllabus

## UNITED STATES EX REL. EISENSTEIN *v.* CITY OF NEW YORK, NEW YORK, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 08–660. Argued April 21, 2009—Decided June 8, 2009

Petitioner filed this *qui tam* action in the name of the United States against respondent city and several of its officials under the False Claims Act (FCA), 31 U. S. C. §3729. The Government declined to exercise its statutory right to intervene, the District Court dismissed the complaint and entered judgment for respondents, and petitioner filed a notice of appeal 54 days later. Federal Rule of Appellate Procedure 4(a)(1)(A) and 28 U. S. C. §2107(a) require, generally, that such a notice be filed within 30 days of the entry of judgment, but Rule 4(a)(1)(B) and §2107(b) extend the period to 60 days when the United States is a "party." The Second Circuit held that the 30-day limit applied and dismissed petitioner's appeal as untimely.

*Held:* When the United States has declined to intervene in a privately initiated FCA action, it is not a "party" to the litigation for purposes of either §2107 or Rule 4. Because petitioner's time for filing a notice of appeal in this case was therefore 30 days, his appeal was untimely. Pp. 3–9.

(a) Although the United States is aware of and minimally involved in every FCA action, it is not a "party" thereto unless it has brought the action or exercised its statutory right to intervene in the case. Indeed, intervention is the requisite method for a nonparty to become a party. See *Marino* v. *Ortiz*, 484 U. S. 301, 304. To hold otherwise would render the FCA's intervention provisions superfluous, contradicting the requirement that statutes be construed in a manner that gives effect to all their provisions, see, *e.g.*, *Cooper Industries, Inc.* v. *Aviall Services, Inc.*, 543 U. S. 157, 166. The FCA expressly gave the United States discretion to intervene in FCA actions, and the Court cannot disregard that congressional assignment of discretion by des-

ignating the United States a "party" even after it has declined to assume the rights and burdens attendant to full party status. Pp. 3–6.

(b) Petitioner's arguments for designating the United States a party in all FCA actions are unconvincing. First, neither the United States' "real party in interest" status, see Fed. Rule Civ. Proc. 17(a), nor the requirement that an FCA action be "brought in the name of the Government," 31 U. S. C. §3730(b)(1), converts the United States into a "party" where, as here, it has declined to bring the action or intervene. Second, the Government's right to receive pleadings and deposition transcripts when it declines to intervene, see §3730(c)(3), does not support, but weighs against, petitioner's argument: If the United States were a party to every FCA suit, it would already be entitled to such materials under Federal Rule of Civil Procedure 5. Third, the fact that the United States is bound by the judgment in all FCA actions regardless of its participation in the case is not a legitimate basis for disregarding the statute's intervention scheme. Finally, given that Rule 4(a)(1)(B) hinges its 60-day time limit on the United States' "party" status, petitioner's contention that the limit's underlying purpose would be best served by applying it in every FCA case is unavailing. Pp. 6–9.

540 F. 3d 94, affirmed.

THOMAS, J., delivered the opinion for a unanimous Court.