

## Eli's Hospice Insider

### Whistleblowers: Court Decision On Whistleblowers Could Give Rise To More Suits

**Intervention by the feds no longer affects timeline.**

A new **U.S. Supreme Court** decision could increase healthcare providers' burdens regarding whistleblower lawsuits.

Plaintiffs filing qui tam suits now have up to 10 years to file, even if the government decides not to intervene in the case, according to a May 13 decision in *Cochise Consultancy Inc. v. U.S. ex rel Hunt*. The high court heard the case because three different appeals courts had three different interpretations on the timeline.

The False Claims Act says suits may not be brought more than six years after the date on which the violation is committed, or more than three years after the date when material facts are known (or reasonably should have been known) by the U.S. official charged with responsibility to act in the circumstances, but in no event more than 10 years after the date on which the violation is committed - whichever occurs last.

In essence, the government gets extra years, notes law firm **Holland & Knight** in a blog post. But the appeals courts split on whether a whistleblower could take advantage of those extra years when the **Department of Justice** declines to intervene. The Supreme Court has decided that qui tam relators also get to take advantage of the extra years, and therefore have up to 10 years to file suit.

The decision won't result in a deluge of more whistleblower cases, because most qui tam relators don't proceed once the government declines to intervene, legal experts note. "But the broader message is impactful," attorney **David Chizewer** of **Goldberg Kohn** in Chicago told Bloomberg Law. "The court affirmed that whistleblowers pursuing cases without government intervention are fulfilling a function on par with cases the government brings or joins," he said.

Defendants may have to take on more expansive discovery in relevant cases, pointed out attorney **Jason Crawford** of **Crowell & Moring** in Washington, D.C. But the decision should cut down on forum-shopping for cases, attorney **Lori Pines** of **Weil, Gotshal & Manges** in New York told Bloomberg.