

JUN 16 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRUCE DARIAN, Individually, on his
own behalf, aka SEAL 1 dba Darian
Construction, Co.,

Plaintiff - Appellant,

and

USA, EX REL. DARIAN, as a Relator on
behalf of the United States Government,

Plaintiff,

v.

ACCENT BUILDERS, INC., a California
corporation, aka SEAL A; et al.,

Defendants,

AMERICAN INTERNATIONAL
COMPANIES; et al.,

Defendants,

and

DAVID PASTERNAK; et al.,

No. 06-55692

D.C. No. CV-00-10255-FMC

MEMORANDUM *

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Defendants - Appellees.

Appeal from the United States District Court
for the Central District of California
Florence-Marie Cooper, District Judge, Presiding

Submitted June 3, 2009**
Pasadena, California

Before: RYMER and GRABER, Circuit Judges, and ALDRICH, *** District Judge.

Bruce Darian appeals pro se from the district court's judgment under Federal Rule of Civil Procedure 54(b) in favor of state court-appointed receiver David Pasternak and his law firm. We lack jurisdiction and therefore must dismiss the appeal.

For purposes of determining the timeliness of a Notice of Appeal, the United States is only considered a party in a *qui tam* action under the False Claims Act if it formally intervenes. *See United States ex rel. Eisenstein v. City of New York*, No. 08-660, ___ S. Ct. ___, 2009 WL 1576570, at *3 (U.S. June 8, 2009). Because the United States never intervened, Darian had only thirty days, not sixty, to file his

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*** The Honorable Ann Aldrich, Senior United States District Judge for the Northern District of Ohio, sitting by designation.

Notice of Appeal. *See* Fed. R. App. P. 4(a)(1)(A). He failed to do so and therefore we lack jurisdiction.

DISMISSED.