Clients regularly ask: If we win this putative class action, can the opposition just file another one on behalf of another as-yet-unidentified putative class representative? Until June 11, the answer was “Maybe?” Now, the answer is clearly no.

In a unanimous decision, the Supreme Court (in reversing the Ninth Circuit) clarified that the tolling recognized under American Pipe applies only to successive individual actions, not successive putative class actions. China Agritech v. Resh, 2018 U.S. LEXIS 3502, *23 (U.S. 2018). According to the opinion authored by Justice Ginsburg: “We hold that American Pipe does not permit a plaintiff who waits out the statute of limitations to piggyback on an earlier, timely filed class action. The ‘efficiency and economy of litigation’ that support tolling of individual claims . . . do not support maintenance of untimely successive class actions.” Id. at *13-*14.

In her concurrence in the judgment, Justice Sotomayor wrote she would limit the holding to cases under the PSLRA. Id. at *24. But she was alone in that view. Id.

We applaud the U.S. Supreme Court in continuing to recognize the inherent limits of class action procedure, and we look forward to similar opinions in the future.