

For Whom the Bell Tolls? It Tolls for Thee, American Pipe and Successive Class Actions

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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.

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