

Supreme Court Says No To Repeat Class Actions After Statute Of Limitations

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On June 11, the U.S. Supreme Court unanimously held that filing a class action lawsuit does not toll the statute of limitations for the class to file the same claims again in the future. This means that if the class files claims but is denied class certification, it cannot return to court and file the same claims again if the limitations period expired during the course of the previous litigation. In *China Agritech, Inc. v. Resh*, a class of stockholders timely filed a lawsuit against China Agritech in 2011, but class certification was denied. In 2012, the class filed a second timely lawsuit alleging the same claims, but again class certification was denied. In 2014, after the limitations period had passed, the class attempted to file a third lawsuit alleging the same claims. The court held that although individual class members' deadlines to file their own lawsuits were tolled by the filing of a class action lawsuit, the class' deadlines were not. Justice Ginsburg explained, "there is little reason to allow plaintiffs who passed up opportunities to participate in the first (and second) round of class litigation to enter the fray several years after class proceedings first commenced." Although *China Agritech* is a securities case and not an employment case, the court's holding has benefits to employers as well. For example, after this ruling, a purported class of employees could not repeatedly file lawsuits against an employer alleging wage and hour violations after the statute of limitations had passed. While individual employees might in some circumstances be able to file their own lawsuits after the limitations period expired if their class was denied certification, employers generally will find litigating against a single employee to be less burdensome than litigating against a class.

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