California Public Employees' Retirement System v. ANZ Securities, Inc., No. 16-373

Civil actions alleging violations of the Securities Exchange Act must be filed within "three years after the security was bona fide offered to the public." Taking a strict view of the time limitation, the Supreme Court held today that the three-year period cannot be extended by so-called *American Pipe* tolling.

In *American Pipe & Construction Co. v. Utah*, 414 U.S. 538 (1974), the Supreme Court held that "the commencement of a class action suspends the statute of limitations as to all asserted members of the class who would have been parties had the suit been permitted to continue as a class action." Putative class members who opt out of a certified class may therefore pursue individual claims even if the limitations period has run.

In a 5-4 opinion authored by Justice Kennedy, the Court held that *American Pipe* is grounded in equitable considerations and cannot extend a statute of repose like the Securities Exchange Act's three-year period. Thus, new claims filed by class members who have opted out may be time barred.

Justice Ginsburg, joined by Justices Breyer, Sotomayor, and Kagan, dissented. In her view, the Court has overstated the value of repose because plaintiffs who opt out of a class action can litigate only the same claim that the defendant was already facing.