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Supreme Court to Hear Arguments in Case Involving Filing Deadlines for Follow-on Class Actions

(*China Agritech, Inc. v. Resh*)

“Congress has imposed a reasonable statute of limitations on securities fraud class actions. The plaintiffs’ bar should not be permitted to flout that limitations period by filing class actions *seriatim* following denial of class certification in an initial lawsuit.”

—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—The U.S. Supreme Court will hear oral arguments this coming Monday, March 26, at 11 a.m., in *China Agritech, Inc. v. Resh*, a case that will decide whether to permit “equitable tolling” of the statute of limitations applicable to securities fraud class actions. WLF Chief Counsel Richard Samp, who drafted WLF’s brief in this case, will be available Monday afternoon to discuss what the oral arguments may have revealed about likely outcomes.

A federal statute of limitations states that a securities fraud claim is barred unless it is filed within two years of discovery of the facts constituting the alleged fraud. Under a rule established in the Supreme Court’s 1974 *American Pipe* decision, when a putative class action is filed, the limitations period is tolled with respect to the claims of any class plaintiffs who may later decide to file their own individual lawsuits; and the period does not begin to run again until the date on which the court denies a class certification motion. In other words, those individuals may file their own lawsuit following denial of class certification, even if their claims would have been time-barred but for the *American Pipe* tolling rule.

The question before the Court on Monday is whether the *American Pipe* tolling rule should be extended to permit those individuals to file their own class actions on behalf of other tardy filers.

WLF’s brief urged the Court not to extend the *American Pipe* rule. WLF argued that if tolling rules are applied as requested by the plaintiffs, there would be no end to *seriatim* class actions. Even if class certification were denied in three successive lawsuits, plaintiffs’ lawyers could still file a fourth class action without regard to the limitations period.

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