
<i>American Pipe</i> Class Action Tolling Inapplicable to Section 13 Statute of Repose

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On June 27, 2013, the United States Court of Appeals for the Second Circuit held, in *In re IndyMac Mortgage-Backed Securities Litigation*, that the class action tolling rule set forth by the Supreme Court in *American Pipe & Construction Co. v. Utah* – that the commencement of a class action suspends the applicable 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 – is inapplicable to the three-year statute of repose in Section 13 of the Securities Act of 1933 (“Securities Act”). Additionally, the Court held that, absent circumstances that would render newly asserted claims independently timely, neither Rule 24 (relating to intervention) nor Rule 15(c) (relating to the “relation back” of amended pleadings) of the Federal Rules of Civil Procedure permits members of a putative class who are not named parties to intervene in a class action as named parties in order to revive claims previously dismissed for lack of jurisdiction.

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