New York Court of Appeals Recognizes Cross-Jurisdictional American Pipe Tolling Under State Law

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In a pair of decisions decided approximately 40 years ago, the Supreme Court of the United States held that the commencement of a putative class action lawsuit in federal court tolls the running of the statute of limitations applicable to federal claims for all purported members of the class until entry of an order denying class certification or otherwise dismissing the litigation. See American Pipe & Construction Co. v. Utah, 414 U.S. 538 (1974); Crown, Cork & Seal Co., Inc. v. Parker, 462 U.S. 345, 350 (1983). Until recently, it remained an open question under New York law as to whether so-called "American Pipe tolling" applied in New York courts where the earlier-filed class action was filed in a jurisdiction other than New York. That question recently was answered by the New York Court of Appeals in Bermudez Chavez v. Occidental Chemical Corp., 35 N.Y.3d 492 (N.Y. 2020), where that court held that American Pipe tolling applies to "absent class members of a putative class action in another jurisdiction." The Court of Appeals further held that "'a non-merits dismissal of class certification' can terminate such cross-jurisdictional tolling."

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