

17-432 CHINA AGRITECH, INC. V. RESH

DECISION BELOW: 857 F.3d 994

LOWER COURT CASE NUMBER: 15-55432

QUESTION PRESENTED:

In *American Pipe and Construction Co. v. Utah*, 414 U.S. 538 (1974), and *Crown, Cork & Seal Co. v. Parker*, 462 U.S. 345 (1983), this Court held that the "timely filing of a defective class action toll[s] the limitations period *as to the individual claims* of purported class members." *Irwin v. Dep't of Veterans Affairs*, 498 U.S. 89, 96 n.3 (1990) (emphasis added). In this case, two defective class actions were filed during the limitations period. Respondents, absent members of the rejected classes, filed a third class action, this time outside the limitations period. The Ninth Circuit construed *American Pipe* to toll the limitations period and make this third class action timely. Respondents' class complaint would have been dismissed as untimely in at least six other Circuits, which have held—as this Court recognized in *Irwin* and other cases—that *American Pipe* applies only to individual actions, not new class actions brought by previously absent class members.

The question presented is:

Whether the *American Pipe* rule tolls statutes of limitations to permit a previously absent class member to bring a subsequent class action outside the applicable limitations period.

CERT. GRANTED 12/8/2017