The Supreme Court - June 11, 2018

The Supreme Court of the United States issued four decisions today:

China Agritech, Inc. v. Resh, No. 17-432: In *American Pipe & Constr. Co. v. Utah*, 414 U.S. 538 (1974) and subsequent decisions, the Court has held that the timely filing of a class action tolls the applicable statute of limitations for all persons encompassed by the class complaint, thus permitting members of the putative class the opportunity – if class certification is denied – to intervene in the action as individual plaintiffs or bring their own individual suit. The current suit is the third class action brought by stockholders of China Agritech, alleging Securities Exchange Act violations. The first two class actions were filed within the statute of limitations, but class certification was denied. Respondent Michael Resh – who had not sought lead plaintiff status in the prior two actions but was within the class – brought this third action after the statute of limitations had expired. The District Court dismissed the class complaint as untimely, but the Ninth Circuit reversed, citing the *American Pipe* tolling rule. Today, the Court reversed, holding that *American Pipe* tolls the statute of limitations during the pendency of a putative class action, allowing unnamed class members to join the action individually or file individual claims if the class fails, but does not permit the maintenance of a follow-on class action past expiration of the statute of limitations.

The Court's decision is available here.

Sveen v. Melin, No. 16-1432: Mark Sveen and respondent Kaye Melin got married in 1997 and Sveen purchased a life insurance policy naming Melin as the primary beneficiary and his two children from a prior marriage as contingent beneficiaries. At that time, governing Minnesota law provided that a divorce did not affect a beneficiary designation – instead only a particular divorce decree could do so. When Sveen and Melin divorced in 2007, Minnesota had a new revocation-on-divorce statute that upon divorce revoked the beneficiary designation to the former spouse. Sveen and Melin's divorce decree did not mention the insurance policy and Sveen took no action to revise his designation. After he died in 2011, Sveen's children and Melin made competing

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claims to the life insurance proceeds. The District Court awarded the proceeds to the Sveens, but the Eighth Circuit reversed, holding that a revocation-upon-divorce statute like the one here violates the Contract Clause when applied retroactively. The Court today reversed, holding that applying Minnesota's automatic-revocation rule to a beneficiary designation made before the statute's enactment does not violate the Contract Clause of the Constitution.

The Court's decision is available here.

Husted v. A. Philip Randolph Institute, No. 16-980: The State of Ohio – in an effort to keep the State's voting lists up to date – identifies voters who have not voted for two years, sends them a postage prepaid card asking them to verify their residency at that address, and removes voters who do not return that card and fail to vote in any election for more than four years. Respondent advocacy groups and an Ohio resident sued Ohio's Secretary of State, alleging this process violated the Failure-to-Vote Clause and other provisions in the National Voter Registration Act ("NVRA") and the Help America Vote Act of 2002 ("HAVA"). The District Court rejected these arguments, but the Sixth Circuit reversed, contending that Ohio law violated the Failure-to-Vote Clause because the mailed notices were sent "based 'solely' on a person's failure to vote." Today, the Court reversed, holding that Ohio law does not violate the Failure-to-Vote Clause, nor the other provisions of the NVRA and HAVA.

The Court's decision is available here.

Washington v. United States, No. 17-269: Twenty-one Indian tribes were joined by the United States in filing an action against the State of Washington. In the suit, they contended that the State's construction and maintenance of culverts had impacted the salmon population, which in turn violated 1854 and 1855 treaties guaranteeing the Tribes off-reservation fishing-rights. The District Court found that the State's conduct violated its obligation under the Treaties, and the Ninth Circuit affirmed. The Supreme Court granted certiorari on questions regarding treaty interpretation, the State's equitable defenses, and whether the injunction violates federalism and comity principles. Justice Kennedy did not take part in the decision, and today, in a per curiam order, the judgment of the Ninth Circuit was affirmed by an equally divided Court.

The Court's decision is available here.