

Inside the Courts An Update From Skadden Securities Litigators

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

Boris Bershteyn

Partner / New York
212.735.3834
boris.bershteyn@skadden.com

Robert A. Fumerton

Partner / New York
212.735.3902
robert.fumerton@skadden.com

Jay B. Kasner

Partner / New York
212.735.2628
jay.kasner@skadden.com

Scott D. Musoff

Partner / New York
212.735.7852
scott.musoff@skadden.com

Susan L. Saltzstein

Partner / New York
212.735.4132
susan.saltzstein@skadden.com

Supreme Court Rules That Equitable Tolling Does Not Apply to Section 13 of the Securities Act

In one of the first cases argued before new Justice Neil Gorsuch, the Supreme Court in *California Public Employees' Retirement System v. ANZ Securities, Inc. (CalPERS)*, No. 16-373, slip op. at 16-17 (June 26, 2017), decided today that the three-year statute of repose under Section 13 of the Securities Act barred an individual plaintiff's Section 11 claims. Justice Kennedy delivered the opinion, joined by Justices Roberts, Thomas, Alito and Gorsuch, affirming the Second Circuit's underlying decision. Justice Ginsburg wrote the dissenting opinion, joined by Justices Breyer, Sotomayor and Kagan. The opinion marks a victory for defendants, holding that the tolling principle discussed in *American Pipe* is inapplicable to the three-year time bar. The Court applied a "straight-forward analysis" and held that "[t]he 3-year time bar in Section 13 of the Securities Act is a statute of repose." (Op. at 16.) The majority concluded that the "statute displaces the traditional power of courts to modify statutory time limits in the name of equity." (*Id.*)

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Four Times Square / New York, NY 10036 / 212.735.3000