Newsroom: Burger on Environmental Law

Roger Williams University School of Law

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Newsroom

Burger on Environmental Law

Professor Michael Burger in Huffington Post on an upcoming U.S. Supreme Court case that could make it harder for victims of hazardous pollutants to get justice.

From the HUFFINGTON POST: “Supreme Court Could Make It Harder For Victims Of Hazardous Pollutants To Get Justice” by Lynne Peeples

April 16, 2014: [...] Later this month, the Supreme Court will consider whether a federal environmental law that sets a different clock – one that starts ticking when a victim first learns of the contamination that likely caused his or her injury – should override the state law and allow the Asheville landowners' claims to move forward. CTS Corp. v. Waldburger turns on obscure legal terminology, but its implications for corporate America are significant. Big names are watching the case, including the American Chemistry Council, the National Association of Manufacturers, the American Coatings Association – and the U.S. Department of Justice.
Michael Burger, an expert in environmental law at Roger Williams University in Rhode Island, agrees with the landowners on this point.

"The report that ultimately led to the enactment of this part of CERCLA identified significant problems created for victims of toxic contamination by both statutes of limitations and statutes of repose," Burger said, adding that Congress doesn't use the term "statute of repose" anywhere in its books. […]

Whichever way the Supreme Court rules, there could be potentially significant implications.

Burger suggested that a decision in favor of CTS would create "a perverse incentive" to pass statutes of repose in states that want to lure certain types of industry. […]

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