

This morning, the U.S. Supreme Court issued its [decision](#) in *CTS Corp. v. Waldburger*. In this case, which my colleague Jesse Lueders described and analyzed in detail [here](#) and [here](#), the Court had to decide whether state statutes of repose can bar tort lawsuits by people harmed by latent injuries from toxic contamination, by imposing a cutoff date for bringing suit that runs before the injured parties are even aware that they have been harmed. The Court's answer? Yes, states may lawfully impose this type of limitation. In my view, explained in detail in an [amicus brief](#) that Jesse and I authored on behalf of the Natural Resources Defense Council, this was the wrong result.

Some brief context: Injuries to people and property from contaminated sites often do not become apparent for years or even decades after the contamination enters the ground. But many states had – and some still have – limitations periods on tort claims that run from an earlier date, which would mean that people injured by toxic contamination could lose their right to obtain a remedy in court before they even are aware they've been harmed. In recognition of this fact, Congress imposed a “uniform federal commencement date” for limitations periods on toxic tort claims, running from the time when a person discovered the injury, in order to ensure that people harmed by latent injuries were not left without a remedy. The Fourth Circuit Court of Appeals held that this federal law preempts the North Carolina “statute of repose” that runs from the date of a defendant's last act.

But the Court, in an opinion authored by Justice Anthony Kennedy and joined by six other Justices, reversed the Fourth Circuit and held that state “statutes of repose” that run from the date of a defendant's last act are not subject to this uniform federal rule, and can be applied to nullify plaintiffs' claims. For the reasons detailed in our brief, this is an unfortunate result and isn't consistent with what Congress intended. Justice Ginsburg, joined by Justice Breyer, filed a dissenting opinion in this case, which follows the arguments made by the plaintiffs in this case and echoes themes from our amicus brief. As [Jesse has noted](#), at stake here, among other things, was the ability of U.S. Marines and family members exposed to [contaminated soil and groundwater at Camp Lejeune](#) in North Carolina to move forward with tort litigation against the U.S. government in another case involving decades-old contamination occurring in North Carolina.

Amy Howe at SCOTUSblog has posted a [“quick take”](#) on the Supreme Court opinion.