

## Federal Appellate Court Rules that CERCLA Preempts State Statute of Repose, Allowing Common Law Nuisance Claim to Proceed Against Company

**Prepared for the Katten Environmental Advisory Group**

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On July 10, 2013, in a 2-1 decision, the U.S. Court of Appeals for the Fourth Circuit (the "Court") reversed a lower court ruling that had barred a common law nuisance claim by owners of contaminated property based on a "statute of repose"—allowing the nuisance claim to proceed, notwithstanding that the contamination occurred in 1987 and a 10-year statute of repose would otherwise have applied. *Waldburger v. CTS Corp.*, No. 12-1290, 2013 WL 3455775 (4th Cir. July 10, 2013).

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### CONTACTS

For more information, contact your Katten attorney or any of the following attorneys.



**Nancy J. Rich**

+1.312.902.5536

[nancy.rich@katten.com](mailto:nancy.rich@katten.com)

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