

Opinion of STEVENS, J.

SUPREME COURT OF THE UNITED STATES

No. 08–905

MERCK & CO., INC., ET AL., PETITIONERS *v.* RICHARD
REYNOLDS ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE THIRD CIRCUIT

[April 27, 2010]

JUSTICE STEVENS, concurring in part and concurring in
the judgment.

In my opinion the Court’s explanation of why the complaint was timely filed is convincing and correct. *Ante*, at 12–19. In this case there is no difference between the time when the plaintiffs actually discovered the factual basis for their claim and the time when reasonably diligent plaintiffs should have discovered those facts. For that reason, much of the discussion in Part II of the Court’s opinion, see *ante*, at 8–12, is not necessary to support the Court’s judgment. Until a case arises in which the difference between an actual discovery rule and a constructive discovery rule would affect the outcome, I would reserve decision on the merits of JUSTICE SCALIA’s argument, *post*, at 1–7 (opinion concurring in part and concurring in judgment). With this reservation, I join the Court’s excellent opinion.