

05-1323

*UGI Utilities v. Consolidated Edison of New York*

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Question Presented:

Last Term, in *Cooper Industries, Inc. v. Aviall Services, Inc.*, the Court held that private parties may sue other potentially liable parties for contribution under § 113(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9613(f)(1), only during or following a CERCLA abatement or cost recovery action. 543 U.S. 157, 166 (2004).

*Cooper Industries* acknowledged but left undecided the important question presented here:

Whether persons potentially liable for cleanup costs, who have neither been sued under CERCLA nor resolved their liability to the government, but who have incurred cleanup costs, can recover those costs from other potentially liable parties under § 107(a)(4)(B), thereby avoiding § 113(f)'s limitations on contribution claims.