

[Products Liability Law Daily Wrap Up, STATUTES OF LIMITATIONS AND REPOSE—CHEMICAL PRODUCTS—D. Del.: Claims against Monsanto dismissed with prejudice in worker's herbicide-induced cancer case, \(Sept. 19, 2025\)](#)

Products Liability Law Daily Wrap Up

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By Pankhuri Bhatnagar, B.A. LL.B.

The worker's claims were time-barred under Indiana's ten-year statute of repose for product liability actions, which is not subject to tolling.

In an action brought against an herbicide manufacturer by a man who allegedly developed testicular cancer from his exposure to the herbicide's carcinogenic chemicals while working for an agricultural company, the federal district court in Delaware granted the manufacturer's motion to dismiss. The court applied Indiana law since that forum had the "most significant relationship" to the man's claims, all of which arose from personal injuries sustained while working for a company in Indiana. The worker's last working day at the company was in November 2011, and Indiana law required him to bring suit within ten years "after the delivery of the product," making the June 2022 case untimely (*Miller v. Monsanto Co.*, No. 24-11 (JLH) (D. Del. Sept. 10, 2025)).

Background. In 2011, a man worked at Pioneer Hi-Bred International Inc. in Plymouth, Indiana. He claimed that he was regularly exposed to glyphosate-containing Roundup® herbicides during his employment and was subsequently diagnosed with testicular cancer in November 2012. He filed a pro se complaint against the herbicide's manufacturer, Monsanto Co., alleging physical harm from the Roundup® product. He previously attempted to bring the same suit in a Mississippi federal court in June 2022, but that action was dismissed for lack of personal jurisdiction. The complaint here asserted claims of negligence, strict liability based on design defect, strict liability for failure to warn, and breach of implied warranties. Monsanto moved to dismiss the Delaware action for failure to state a claim, arguing the claims were untimely and otherwise deficient.

Legal standard. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A claim is plausible when it contains "factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Pro se pleadings are "held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

Statute of repose. The court noted that Delaware law, as the forum, required it to apply Delaware's choice-of-law rules, which use the "most significant relationship" test from the Restatement (Second) of Conflict of Laws. *Travelers Indem. Co. v. Lake*, 594 A.2d 38, 47 (Del. 1991). The court found Indiana's interest controlling because all relevant conduct and injury occurred in Indiana. Under Indiana law, product liability actions are governed by the Indiana Products Liability Act (IPLA), which applies to "all actions brought by a user or consumer against a manufacturer or seller for physical harm caused by a product, regardless of the legal theory upon which the action is brought." *Hathaway v. Cintas Corp. Servs., Inc.*, 903 F. Supp. 2d 669, 673 (N.D. Ind. 2012). Section 34-20-3-1(b)(2) of the IPLA clarifies that "a product liability action must be commenced... within ten (10) years after the delivery of the product to the initial user or consumer." The Seventh Circuit has held that this repose period is rigid: "The statute of repose in the IPLA is not subject to tolling under any theory." *Cortez v. Cook Inc.*, 27 F.4th 563, 567 (7th Cir. 2022).

Analysis. The court noted that the man's last exposure to Roundup® occurred no later than November 14, 2011, which was his last working day at Pioneer. This made the effective delivery date for the ten-year repose period November 2011 at the latest. The earliest lawsuit, filed in June 2022, came more than ten years after this

last delivery. The court applied the Indiana statutory language and binding Seventh Circuit authority, holding there was simply no room to toll, extend, or carve out exceptions. Since the repose period had lapsed as a matter of law by the time any action was filed, all claims were barred by the IPLA's ten-year statute of repose and were due to be dismissed. Since the legal bar was absolute and amendment could not cure the time-bar, the court held that any amendment would be futile and ordered the case to be closed.

The case is No. [24-11 \(JLH\)](#).

Judge: Hall, J.

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Companies: Monsanto Co.

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