

SUPREME COURT OF ILLINOIS

Folta v. Ferro Engineering

2015 IL 118070 · No. 118070 · Decided December 10, 2015

SUMMARY

The Illinois Supreme Court held that the exclusive-remedy provisions of the Workers’ Compensation Act and Workers’ Occupational Diseases Act barred an employee’s common-law and wrongful-death claims against his former employer for asbestos-related mesothelioma. The court concluded that the disease fell within the Acts’ coverage even though the applicable statute of repose expired before the disease manifested and before a compensation claim could be filed. The court reversed the appellate court and affirmed the circuit court’s dismissal.

CASE DETAILS

|                       |                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Illinois                                                                                                                                                                                                             |
| WRITING FOR THE COURT | Justice Theis; Chief Justice Garman; Justice Karmeier; Justice Burke; Justice Freeman; Justice Kilbride; Justice Thomas                                                                                                               |
| JURISDICTION          | Illinois                                                                                                                                                                                                                              |
| DECIDED               | December 10, 2015                                                                                                                                                                                                                     |
| DOCKET                | 118070                                                                                                                                                                                                                                |
| DISPOSITION           | reversed                                                                                                                                                                                                                              |
| PROCEDURAL POSTURE    | Ferro Engineering appealed the Illinois Appellate Court's reversal of the circuit court's dismissal of Folta's wrongful-death and related common-law claims. The Illinois Supreme Court allowed Ferro's petition for leave to appeal. |
| STANDARD OF REVIEW    | De novo review of the legal question concerning interpretation of the exclusive-remedy provisions.                                                                                                                                    |
| PRECEDENTIAL VALUE    | published precedential opinion                                                                                                                                                                                                        |
| PARTIES               | Ferro Engineering, a Division of ON Marine Services Company v. Ellen Folta, individually and as special administrator of the estate of James Folta, deceased                                                                          |

TOPICS

- workers compensation
- statutory interpretation
- legislative intent
- wrongful death
- appellate procedure

## PRACTICE AREAS

workers compensation

employment law

torts

statutory interpretation

appellate procedure

## QUESTIONS PRESENTED

1. Whether the exclusive-remedy provisions of the Illinois Workers' Compensation Act and Workers' Occupational Diseases Act bar an employee's common-law or wrongful-death action against an employer when the work-related asbestos disease is within the statutes' substantive coverage but statutory time limits extinguished the right to seek benefits before the disease manifested.
2. Whether applying the exclusive-remedy provisions in these circumstances violates the Illinois Constitution's equal-protection, special-legislation, or certain-remedy guarantees.

## HOLDINGS

1. An employee's common-law and wrongful-death claims against an employer are barred by the exclusive-remedy provisions when the disease arose out of and in the course of employment and is the type of occupational disease covered by the Acts, even if a statute of repose or other time limitation extinguished the employee's ability to obtain benefits before the disease manifested.
2. Applying the exclusive-remedy provisions does not violate equal protection or the prohibition against special legislation because workers with short- and long-latency occupational diseases are treated alike with respect to the right to bring common-law damages actions, and the statutory scheme does not create an impermissible categorical class.
3. The exclusive-remedy provisions do not violate the Illinois Constitution's certain-remedy clause because the legislature may restrict the class of defendants from whom a plaintiff may seek relief, and the Acts leave potential claims against third parties available.

## KEY QUOTATIONS

*“For the following reasons, we hold that under these circumstances, the employee’s action is barred by the exclusive remedy provisions of those acts.” (¶ 1)*

*“Thus, Pathfinder, Collier and Meerbrey stand for the proposition that whether an injury is compensable is related to whether the type of injury categorically fits within the purview of the Act.” (¶ 23)*

*“To construe the scope of the exclusive remedy provisions to allow for a common-law action under these circumstances would mean that the statute of repose would cease to serve its intended function, to extinguish the employer’s liability for a work-related injury at some definite time.” (¶ 35)*

*“For all of the foregoing reasons, Folta’s action against Ferro Engineering for wrongful death is barred by the exclusive remedy provisions of the Workers’ Compensation Act and the Workers’ Occupational Diseases Act.” (¶ 52)*

## FACTUAL BACKGROUND

James Folta worked for Ferro Engineering from 1966 to 1970 as a shipping clerk and product tester and was exposed to asbestos-containing products during that employment. Forty-one years later, in May 2011, he was

diagnosed with mesothelioma. He sued Ferro and other defendants, but the applicable workers' compensation and occupational-disease statutory periods had expired before his disease manifested. James died during the litigation, and Ellen Foltz was substituted and amended the complaint to assert wrongful death.

## PROCEDURAL HISTORY

James Foltz sued Ferro Engineering and other defendants after being diagnosed with asbestos-related mesothelioma 41 years after his employment ended. The Cook County circuit court dismissed the claims against Ferro under the exclusive-remedy provisions of the Workers' Compensation Act and Workers' Occupational Diseases Act. After James died, Ellen Foltz was substituted and the complaint was amended to add wrongful death. The appellate court reversed and remanded, but the Illinois Supreme Court reversed the appellate court and affirmed the circuit court.

## DISPOSITION

reversed

## CASES CITED

- Cassens Transport Co. v. Illinois Industrial Comm'n, 218 Ill. 2d 519, 524 (2006)
- Sharp v. Gallagher, 95 Ill. 2d 322, 326-27 (1983)
- Zimmerman v. Buchheit of Sparta, Inc., 164 Ill. 2d 29, 44 (1994)
- Duley v. Caterpillar Tractor Co., 44 Ill. 2d 15, 18 (1969)
- Matthiessen & Hegeler Zinc Co. v. Industrial Board, 284 Ill. 378, 382 (1918)
- Meerbrey v. Marshall Field & Co., 139 Ill. 2d 455, 462-68 (1990)
- Collier v. Wagner Castings Co., 81 Ill. 2d 229, 237-41 (1980)
- Sjostrom v. Sproule, 33 Ill. 2d 40, 43 (1965)
- Unger v. Continental Assurance Co., 107 Ill. 2d 79, 85 (1985)
- Pathfinder Co. v. Industrial Comm'n, 62 Ill. 2d 556, 563 (1976)
- Moushon v. National Garages, Inc., 9 Ill. 2d 407, 410-18 (1956)
- Dur-Ite Co. v. Industrial Comm'n, 394 Ill. 338, 344 (1946)
- James v. Caterpillar Inc., 242 Ill. App. 3d 538, 549-50 (1993)
- Handley v. Unarco Industries, Inc., 124 Ill. App. 3d 56, 70-72 (1984)
- Kieffer & Co. v. Industrial Comm'n, 263 Ill. App. 3d 294 (1994)
- Owens Corning Fiberglas Corp. v. Industrial Comm'n, 198 Ill. App. 3d 605 (1990)
- H&H Plumbing Co. v. Industrial Comm'n, 170 Ill. App. 3d 706 (1988)
- Zupan v. Industrial Comm'n, 142 Ill. App. 3d 127 (1986)
- DeLuna v. Burciaga, 223 Ill. 2d 49, 61 (2006)
- Ferguson v. McKenzie, 202 Ill. 2d 304, 311 (2001)
- CTS Corp. v. Waldburger, 573 U.S. 1, 8-9 (2014)
- Roselle Police Pension Board v. Village of Roselle, 232 Ill. 2d 546, 557 (2009)

- People v. Hollins, 2012 IL 112754, ¶ 13
- People v. Richardson, 2015 IL 118255, ¶ 9
- People v. R.L., 158 Ill. 2d 432, 437 (1994)
- In re Petition of the Village of Vernon Hills, 168 Ill. 2d 117, 123 (1995)
- Segers v. Industrial Comm'n, 191 Ill. 2d 421, 435 (2000)
- Bilyk v. Chicago Transit Authority, 125 Ill. 2d 230, 246 (1988)

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