

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF KANSAS

Ellsworth William Jefferies III, et al. v. Harcros Chemicals Inc. et al.

Jefferies v. Harcros Chemicals Inc. · No. No. 25-2352-KHV; 2:25-cv-02352 · Decided April 9, 2026

SUMMARY

The United States District Court for the District of Kansas considers Harcros Chemicals Inc.’s motion to dismiss claims arising from alleged carcinogenic emissions from a Kansas City, Kansas chemical facility. The court addresses the Kansas statute of repose, the Kansas Products Liability Act’s latent-disease exception, continuing duties to warn, and ongoing tortious conduct. The excerpt indicates that the court sustains the motion in part, including dismissal of the negligent-construction claim and certain individual plaintiffs’ claims.

CASE DETAILS

COURT	United States District Court for the District of Kansas
WRITING FOR THE COURT	Kathryn H. Vratil
JURISDICTION	United States District Court for the District of Kansas
DECIDED	April 9, 2026
DOCKET	No. 25-2352-KHV; 2:25-cv-02352
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs filed a First Amended Class Action Complaint asserting Kansas tort claims arising from alleged toxic chemical emissions. Harcros moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the named plaintiffs' claims. The court sustained the motion in part and overruled it in part.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded factual allegations as true and determines whether they plausibly establish an entitlement to relief. Legal conclusions and formulaic recitations of elements are not accepted as true.
PRECEDENTIAL VALUE	Unknown; memorandum and order from a federal district court, with no precedential-status designation in the document.
PARTIES	Ellsworth William Jefferies III, Rocky Garner, Autumn Johnson on behalf of the estate of Weston T. Lawson, Jose L. Ramirez Jr., Kenique Smith, Estelle White, Diane L. Woods, individually and as administrator of the estate of Cecil B. McBee v. Harcros Chemicals

TOPICS

motions to dismiss statute of limitations civil procedure negligence strict liability

PRACTICE AREAS

civil procedure torts environmental law statutory interpretation

QUESTIONS PRESENTED

1. Whether the Kansas ten-year statute of repose barred the negligent-construction claim.
2. Whether the Kansas statute of repose barred the individual claims of Garner, Smith, and White based on alleged exposures and injuries occurring more than ten years before suit.
3. Whether the Kansas Products Liability Act's latent-disease exception applied to plaintiffs' toxic-emissions claims.
4. Whether a continuing duty to warn or repeated emissions postponed or renewed the Kansas statute of repose.
5. Whether plaintiffs plausibly pleaded claims for strict liability based on abnormally dangerous activity, gross negligence, negligence, negligent repair and maintenance, wrongful death, failure to warn, and punitive damages under Rule 12(b)(6).

HOLDINGS

1. The negligent-construction claim was barred because plaintiffs alleged that the facility was constructed in December 1960 and did not allege construction within the ten years preceding suit. The claim was also waived because plaintiffs did not respond to the motion to dismiss that claim.
2. The Kansas Products Liability Act's latent-disease exception did not apply because plaintiffs alleged harm from emissions produced by manufacturing, storage, and transportation processes, not harm caused by defective products sold by Harcos.
3. A continuing duty to warn did not postpone the statute of repose. The last possible breach of a duty to warn occurred when each plaintiff was injured, and the repose period barred the claims of Garner, Smith, and White.
4. Repeated emissions did not renew or postpone the statute of repose for Garner, Smith, and White because the acts giving rise to their claims were the emissions to which they were exposed before their injuries became permanent.
5. Plaintiffs plausibly pleaded strict liability because they alleged facts addressing the Restatement factors for an abnormally dangerous activity, including a high risk of serious harm, inability to eliminate the risk through reasonable care, and inappropriateness of the facility's location.

6. The complaint plausibly pleaded gross negligence, negligence, and negligent repair and maintenance. Rule 8 did not require exact exposure dates, locations, dosage calculations, or expert-level causation analysis at this stage.
7. The complaint plausibly pleaded a wrongful-death claim because it alleged that Lawson was exposed in utero and throughout his life while residing near the facility and that the exposure caused his death.
8. The complaint plausibly pleaded that Harcros owed nearby residents, workers, and students a duty to warn about hazardous emissions and breached that duty.
9. The court declined to dismiss the punitive-damages claim. Although punitive damages are a remedy rather than an independent cause of action, plaintiffs sufficiently alleged facts supporting that remedy.

KEY QUOTATIONS

“The statute of repose operates as a general grant of immunity against claims arising more than ten years after defendant’s actions and abolishes a cause of action even if it has not yet accrued.” (Statute Of Repose)

“It is SUSTAINED as to all claims by Garner, Smith, White and the estate of McBee, and plaintiffs’ negligent construction claim of Count IV (but not as to the negligent repair and maintenance claims of Count IV). Harcros’ motion is OVERRULED in regard to all other claims.” (Order)

FACTUAL BACKGROUND

Plaintiffs alleged that chemical facilities at 5200 Speaker Road in Kansas City, Kansas, emitted ethylene oxide and other hazardous chemicals into surrounding neighborhoods from approximately 1960 through 2025. The named plaintiffs alleged that they lived, worked, or attended school near the facility and developed cancers, suffered a miscarriage, or died after alleged exposure. The complaint attributed facility ownership and operation to several defendants over different periods and alleged recent air testing showing elevated ethylene oxide levels. Harcros, which allegedly operated the facility beginning in 2001, challenged the named plaintiffs' claims under the Kansas statute of repose and Rule 12(b)(6).

PROCEDURAL HISTORY

Plaintiffs filed this diversity action on June 30, 2025, and filed their First Amended Class Action Complaint on October 1, 2025. Harcros moved to dismiss on October 31, 2025, arguing that the Kansas statute of repose barred certain claims and that the complaint failed to state plausible claims. The court dismissed all claims by Garner, Smith, White, and the estate of McBee, and dismissed the negligent-construction portion of Count IV, while allowing the remaining claims to proceed.

DISPOSITION

other

CASES CITED

- Ashcroft v. Iqbal, 556 U.S. 662, 678-80 (2009)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555-57 (2007)

- *Robbins v. Oklahoma*, 519 F.3d 1242, 1248 (10th Cir. 2008)
- *O'Neill v. Dunham*, 41 Kan. App. 2d 540, 544, 203 P.3d 68, 71 (2009)
- *H.B. v. M.J.*, 315 Kan. 310, 312, 508 P.3d 368, 371 (2022)
- *Palmer v. Unified Gov't of Wyandotte Cty./Kan. City*, 72 F. Supp. 2d 1237, 1250-51 (D. Kan. 1999)
- *Savina v. Sterling Drug, Inc.*, 247 Kan. 105, 114, 126, 795 P.2d 915, 923, 931 (1990)
- *Koch v. Shell Oil Co.*, 820 F. Supp. 1336, 1341 (D. Kan. 1993)
- *Patton v. Hutchinson Wil-Rich Mfg. Co.*, 253 Kan. 741, 756, 759, 761-62, 861 P.2d 1299, 1311, 1313 (1993)
- *Fennesy v. LBI Mgmt., Inc.*, 18 Kan. App. 2d 61, 66, 847 P.2d 1350, 1355 (1993)
- *Harding v. K.C. Wall Prods., Inc.*, 831 P.2d 958, 960 (Kan. 1992)
- *Hiner v. Deere & Co.*, 161 F. Supp. 2d 1279, 1282-83 (D. Kan. 2001), rev'd in part on other grounds, 340 F.3d 1190 (10th Cir. 2003)
- *Samarah v. Danek Med., Inc.*, 70 F. Supp. 2d 1196, 1202 (D. Kan. 1999)
- *Jenkins v. Amchem Products, Inc.*, 256 Kan. 602, 630, 886 P.2d 869, 886 (1994)
- *Grey v. City of Topeka*, No. 117,652, 2018 Kan. App. Unpub. LEXIS 199 (Ct. App. Mar. 16, 2018)
- *Hoery v. United States*, 324 F.3d 1220, 1224 (10th Cir. 2003)
- *Cordon v. Trans World Airlines, Inc.*, 442 F. Supp. 1064, 1066 (D. Kan. 1976)
- *Miller v. Cudahy Co.*, 858 F.2d 1449, 1454 (10th Cir. 1988)
- *Robinson v. Shah*, 23 Kan. App. 2d 812, 826, 936 P.2d 784, 794 (1997)
- *Bonin v. Vannaman*, 261 Kan. 199, 207, 929 P.2d 754, 762 (1996)
- *Doe v. Popravak*, 55 Kan. App. 2d 1, 14, 421 P.3d 760, 769 (2017)
- *Freebird, Inc. v. Merit Energy Co.*, 883 F. Supp. 2d 1026, 1035 (D. Kan. 2012)
- *Mariscal v. Valadez*, 756 F. Supp. 3d 1154, 1159-61 (D. Kan. 2024)
- *Burnett v. Mortgage Elec. Registration Sys., Inc.*, 706 F.3d 1231, 1235, 1240 (10th Cir. 2013)
- *Pavone v. Am. Contract Sys.*, No. 2:24-cv-1054-KCD-NPM, 2025 U.S. Dist. LEXIS 199912, at *6 (M.D. Fla. Oct. 9, 2025)
- *Bell v. 3M Co.*, 344 F. Supp. 3d 1207, 1226 (D. Colo. 2018)
- *Cambers v. Bureau Veritas N. Am., Inc.*, No. 21-2222-JWL, 2022 WL 198812, at *2 (D. Kan. Jan. 21, 2022)
- *Adams v. Bd. of Sedgwick Cty. Comm'rs*, 289 Kan. 577, 584, 214 P.3d 1173, 1179 (2009)
- *Elstun v. Spangles, Inc.*, 289 Kan. 754, 755, 217 P.3d 450, 453 (2009)
- *Hamner v. BMY Combat Sys.*, 869 F. Supp. 888, 893 (D. Kan. 1994)
- *Estate of Pennington ex rel. Pennington v. Wolfe*, 262 F. Supp. 2d 1254, 1260 (D. Kan. 2003)