



# Illinois Supreme Court Upholds Amendment Allowing Employees to File Latent Asbestos and Other Occupational Disease Claims Against Employers

**JANUARY 2025**

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On January 24, the Illinois Supreme Court issued a significant ruling in *Martin v. Goodrich Corp.*,<sup>[1]</sup> addressing the statute of repose under the Illinois Workers' Occupational Diseases Act ("ODA"). The court examined the interplay between Section 1(f), which establishes a statute of repose for occupational disease claims, and Section 1.1, which contains an exception to the exclusive remedy provisions set forth in the ODA.

The court upheld the 2019 legislative amendment in Section 1.1 allowing employees to bring suit against their employers in tort for asbestos and other latent occupational disease claims that develop more than 25 years after the date of last occupational exposure. Further, the court rejected the defendants' argument that employers had a vested right to assert defenses that existed before the 2019 amendment, holding that a defendant's right to a defense accrues when the plaintiff's right to a cause of action accrues.

## **Background**

On May 17, 2019, the Illinois legislature amended the ODA by adding Section 1.1.<sup>[2]</sup> This amendment creates an exception to the 25-year statute of repose in Section 1(f) for diseases with long latency periods, such as mesothelioma. Section 1.1 provides that the exclusive remedy provisions of the ODA do not apply to an injury or death caused by an occupational disease when compensation benefits would otherwise be barred due to a period of repose.

## **Decision**

The defendants argued that applying Section 1.1's exception would unfairly burden employers and violate due process protections under the Illinois Constitution by reviving long-expired liabilities. The court rejected this argument, reasoning that the prospective application of Section 1.1's exception does not retroactively impose new liabilities under the ODA. The court noted that a claim does not accrue under the ODA until the employee discovers his injury. In this case, the plaintiff-employee was exposed to the alleged injury-causing chemical in 1974, but was not diagnosed with angiosarcoma of the liver until December 11, 2019, and

filed his civil complaint in 2021. The court held that, because the diagnosis occurred after Section 1.1's enactment, the defendants did not have a vested right in a workers' compensation exclusivity defense. Accordingly, the court ruled that applying Section 1.1 prospectively allowed the plaintiff's civil claim to proceed without violating due process.

### **Implications**

This ruling has significant implications for cases where injuries manifest long after occupational exposure. It provides that employees, whose latent disease claims are otherwise barred by the statute of repose set forth in Section 1(f) of the ODA, may pursue civil claims against their employers if they discovered their injuries after the 2019 amendment to the ODA. In these circumstances, employers can no longer assert the workers' compensation exclusive remedy defense.

[1] *Martin v. Goodrich Corp.*, 2025 IL 130509 (Ill. Jan. 24, 2025).

[2] Pub. Act 101-6, § 10 (eff. May 17, 2019) (adding 820 ILCS 310/1.1).

### **Additional Information**

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