

InSight Reports®

ESTABLISHING CAUSATIVE
ALTERNATIVE WORK SITE EXPOSURES
AND BANKRUPTCY SET-OFF VALUES

2018



InSightReport[®]

What's the Difference?

Typical “bankruptcy reports” are often nothing more than static lists of names, places and numbers prepared months after plaintiff’s deposition. What difference does it make defending or negotiating a case if you receive a bankruptcy report two weeks before trial that simply lists scheduled recovery values? Knowing that plaintiff may recover \$1,000 from the Keene Trust some years in the future is not a difference maker.

But - knowing that Keene made Pyrospray, AND that Pyrospray contained amosite, AND that Pyrospray was present at the building where plaintiff worked for 20 years – that makes a difference. Leading plaintiff to agree, or at least not dispute that exposure on the record . . .

That’s a huge difference maker.

The value of the [Insight Report](#) database lies first in FREE real time access to over 130,000 approved sites based on bankruptcy records. Armed with uncontested information about known exposures at given sites in the context of any pending case, a skilled questioner may introduce admissible documentation with plaintiff’s own testimony that supports causative alternative exposures.

The awkward truth is that few questioners know much if anything about historically causative exposures because the companies are long gone. Typical attempts to cross examination about bankruptcy exposures go like this:

Q. Have you ever heard of a company called Keene Corporation?

A. Not really, no.

Q. Do you know what kind of products they made?

A. No.

Q. Thank you. Now I want to ask you some questions about your identification of [defendant product].

The rest of the “cross” is usually a well-intended but counterproductive direct exam confirming and reinforcing the details of exposure to defendant’s product that plaintiff has been prepared to provide. The examining lawyer will move through the product identification and application distinctions based on an outline that was handed out by national counsel at a seminar in 2008.

On the other hand, if there were affirmative questions and answers on the record about specific, significant exposures, then counsel and experts would have a more complete basis to evaluate alternative exposures that are based on historical fact.

Because the InSight Report database also contains **product types, brand names, fiber supplier information, and actual discovery responses** of bankrupt companies, that information can be compiled to create a cross examination that might look like this:

Q. Have you ever heard of a company called Keene Corporation?

A. Not really, no.

Q. Do you know what kind of products they made?

A. No.

Q. I am handing you what has been marked as Exhibit 6, titled Keene Corporation Answers to Interrogatories. Would you please take a moment to review that document?

A. OK.

Q. If you would please turn to page 3 of Exhibit 6, you would agree that there is a list of asbestos containing products sold by Keene, including Pyrospray, is that correct?

A. That's what it says.

Q. Mr. Johnson, you testified earlier that you saw spray fireproofing products used at the Valley plant, correct?

A. Oh, yeah. Mainly around the furnaces and dryers. The masons and ladders were in there all the time. Big mess. We had to clean up after them.

Q. Let me show you Exhibit 7, and I will represent to you that that it is a list of places that the Keene has identified as receiving asbestos containing Keene products, is that correct?

A. That's what it says.

Q. And listed about half-way down on page 3 is "Valley Motors plant, Strickland, Ohio." Have I read that correctly?

A. Yes.

Q. You have no reason or information as you sit here today to disagree with the identification of the Valley plant as having received asbestos containing products from Keene, do you?

A. No. If it was there, we worked around it.

Q. And that would include insulation products, refractory products, and spray fireproofing products, correct?

A. Oh yes. That stuff was everywhere.

Q. OK. To save some time, I would like to mark Exhibits 8 through 14. And while you are looking at those, sir, I will represent that these are signed discovery responses and bankruptcy site listings from Armstrong, Babcock & Wilcox, Eagle Picher, Fibreboard, Kaiser Refractories, and Owens Corning Fiberglas.

[And so on listing each exposure with plaintiff's confirmation. . .]

Depending on temperament and time constraints in the deposition, examining counsel can establish numerous alternative exposures in this manner. After the deposition, whether plaintiff agreed with some, all or none of the exposure propositions, the record nonetheless contains substantial evidence of alternative exposure due to the introduction of exhibits engineered with InSight Report.

That is the difference.

The key to effective use of historical information is to search known approved sites in the InSight Reports database *before the deposition of plaintiff*. Access to over 130,000 records is FREE and available 24/7 at www.brownsonnorby.com/insight. Coming soon to subscribers, InSight Reports will also provide:

- Alternative Exposures listed by location and product type
- Product Ads and Discovery Responses used to establish product ID on the record
- Bankruptcy Trust Listings used to establish product presence on the record
- Bankruptcy Set-off Values
- Search over 16,000 ship exposures by name and location.

Thank you for reading this far. We would be happy to discuss your thoughts about deploying [InSight Reports](#) in challenging cases for you and your clients.

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