

Proving Alternative Exposure

BEV Keeps Bankrupt Companies in Evidence



Seals 'R' Us, a manufacturer of gaskets and seals, was being sued based on allegations that one of its products caused a plaintiff to develop mesothelioma. The company had reason to believe that other causes were behind the illness because:

- The product had limited distribution.
- The plaintiff, a pipefitter in the early 1970s, would likely have been exposed to many other products that Seals 'R' Us did not produce.
- Many now-bankrupt companies manufactured products like asbestos paper, block, fillers and insulation, which were oftentimes found at the same sites as Seals 'R' Us products.

Seals 'R' Us needed its counsel, Abbott & Costello, LLC, to prove the plaintiff could have been exposed to a product manufactured by a bankrupt company. More so, the company needed evidence to be found quickly. The best, and last, chance to obtain a plaintiff admission of product exposure would be during deposition questioning.

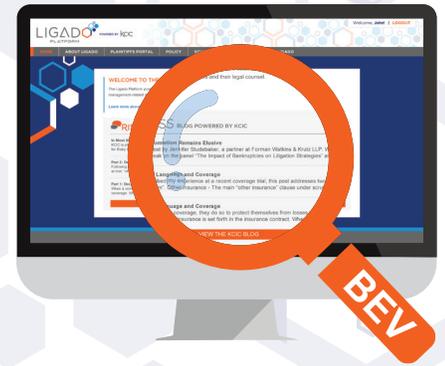
**CASE
STUDY**



THE CLIENT CHALLENGE:

The challenge was that bankrupt companies disappear from the evidentiary record in the tort system. After bankruptcy, they are no longer named on complaints, and they vanish from interrogatories.

The only way to uncover evidence would be to search the asbestos bankruptcy trusts and determine whether the plaintiff had been exposed to or used another product — a source of alternative exposure. But there are dozens of such trusts, each with its own website, trust distribution procedures, and approved jobsite and product lists. To go through even half the trusts could take days — costing both time and money, with no assurance that any useful information would be found.



THE KCIC SOLUTION:

KCIC was able to solve that logistics problem, thanks to BEV, its Bankruptcy Evidence Verification tool. BEV is a comprehensive database that includes public data from bankruptcy trusts, product pictures and other evidence. BEV enables defense counsel to:

- Search thousands of jobsites, products, occupations and industries from bankruptcy trusts.
- View an expanding collection of product photos.
- Edit a listing of potential trust matches and generate a hard copy report to take to deposition.
- Conduct real-time searches for potential exposures.
- Summarize and reference key plaintiff testimony.
- Easily access relevant Trust Distribution Procedures.
- Automatically calculate potential trust recoveries.
- Search states that have enacted trust transparency legislation.

THE RESULT:

Based on jobsite, occupation, industry and product, defense counsel was able to quickly search for potential exposures caused by bankrupt companies.

In a matter of minutes, counsel ran a report that matched the plaintiff's jobsite and product exposure to various bankruptcy trust jobsite and product lists. After reviewing the report, they were able to ask pointed questions during deposition to build a case of alternative exposure. It also helped that BEV could be used in real time, since some additional jobsites came up at the deposition.

A more targeted deposition improved chances of gaining a plaintiff admission before trial — which is exactly what happened.



Building a case of alternative exposure significantly reduced our share of liability in the case. - In-House Counsel for Seals 'R' Us



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