

Richard Lane White

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SUMMARY

Richard has more than two decades of experience consulting to private clients on a range of environmental and insurance coverage issues. He is an expert on the allocation of costs at hazardous waste sites, as well as the evaluation and analysis of liability, allocation and related issues faced by parties at Superfund sites.

He served as a neutral allocation consultant, an allocation expert for contribution cases and he has directed a number of allocation engagements on behalf of clients.

Richard is a frequent contributor to environmental journals where he discusses a variety of cost allocation issues. He earned a Master of Public Policy degree from Harvard University.

Prior to joining Gnarus, Richard worked in the environment and insurance claims groups at LECG, PA Consulting Group and Putnam, Hayes & Bartlett, Inc.

REPRESENTATIVE PROFESSIONAL EXPERIENCE

Cost Allocation at Superfund and Hazardous Waste Sites

Mr. White has served as a neutral allocation consultant and as an expert in contribution suits. He has worked on sites in every region of the country and on a range of sites (e.g., landfills, groundwater plumes, battery breaking operations, manufactured gas operations, tolling operations, pesticide plants, mining operations, and incinerator sites).

- For a coalition of industrial parties at the Beacon Heights landfill (Region I), he has served as the neutral allocation consultant and the allocation expert for the contribution suit (*B.F. Goodrich v. Murtha*) where he recently provided expert testimony on cost allocation issues. As part of his analysis, he has prepared a multi-volume allocation report, assisted litigation counsel

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with its cash-out settlement of fees. The *Murtha* suit involved more than 300 municipal, commercial and industrial waste generators.

- For the industrial parties at the Chemical Control Corporation site (Region 2), he served as the neutral allocation consultant. He worked with the committee on its federal settlement and internal *de minimis* buyout proposal and conducted an audit of the EPA's waste-in list to determine whether it could be used as a basis for adding additional volumetric data supplied by the PRPs. As a result of his work, an additional 50 parties and new sources of documents were identified.
- For the industrial parties at Operating Industries, Inc. landfill (Region 9), he managed the team that developed a waste-in list and conducted a separate analysis of the waste streams generated by a number of municipalities as a part of a third-party contribution suit (*Transportation Leasing v. Caltrans*). He worked closely with counsel on the *de minimis* settlement negotiations.
- For a private party he directed the allocation analysis at a major Region III groundwater NPL site in a contribution case with cleanup costs exceeding more than \$125 million.
- On behalf of ASARCO LLC he has provided testimony on cost allocation issues at many of the sites in the ASARCO Bankruptcy proceeding.
- He has been reviewed and approved by the U.S. Environmental Protection Agency (EPA) to serve as an allocation expert in the on-going EPA Allocation Pilot project.

Environmental Cost Estimation

Mr. White frequently works with other LECG experts whose primary role is the development of future cost estimates at environmental sites. Mr. White frequently assists those experts with related economic, finance and modeling issues.

In the ASARCO bankruptcy, for example, Mr. White provided expert testimony on the appropriateness and application of probabilistic cost analysis and monte carlo simulation modeling, as well as related issues as to timing and discounting, that were being employed by another LECG expert whose role was to forecast future environmental liabilities.

Natural Resource Damages

Mr. White has worked on the evaluation and development of natural resource damage claims. In the ASARCO bankruptcy, for example, he served as ASARCO's expert on NRD where he evaluated NRD claims at numerous sites and provided deposition and trial testimony on potential NRD claims.

Environmental and Products Liability Insurance Coverage

Mr. White's work focuses on the development of allocation models to evaluate complex multi-year, multi-policy insurance coverage programs. He has worked on the allocation of asbestos, environmental, silicone breast implant and other product liability claims.

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- For a Fortune 100 client he has developed the allocation of more than \$1 billion in costs at more than 45 sites across 15 states among 60 insurance carriers. He is currently working with the client team on settlement, in advance of trial where he is expected to present testimony on allocation.
- For a variety of clients involved in potential litigation with their insurance carriers, he has evaluated site remediation issues, including cleanup technologies and allocation issues, at a number of NPL sites in Regions V and VI.
- For a major asbestos products manufacturer, he has evaluated the potential global liability that the company faces from current and future asbestos claims in order to estimate the future claims that party might make against its primary insurance policies, and modeled exhaustion of those policies in preparation for settlement with insurance carriers.
- For a major defense contractor, he managed the project team that developed the cost estimates and allocation analysis for their multi-site environmental insurance claim. He also provided testimony on an allocation of environmental liability claims to various insurance carriers.
- For a Fortune 100 company, he directed the analysis for estimating and allocating claims in a major products liability case where the manufacturer sought recovery from its insurers. This work involved estimating the size of the product implant pool, payouts to claimants and allocation of costs incurred to various insurance carriers. As part of this work, he also evaluated asbestos, environmental, and other products claims for purposes of estimating future costs and allocation of these costs to responding carriers. He provided testimony on the allocation at deposition and trial.
- For a domestic subsidiary of a multi-national corporation, he evaluated the allocation of site costs at three New Jersey facilities and worked with the trial team to develop its allocation methodology and its responses to insurers arguments and analysis from a special insurance master retained by the court.

EDUCATION

B.A. (Economics, History, Political Science), Willamette University, 1983
M.P.P., Harvard University, 1985

PRESENT POSITION

GNARUS ADVISORS, LLC, Director, 2009 to Present

PREVIOUS POSITIONS

LECG, LLC, Cambridge, MA, 2001 – 2009
Director

PA Consulting Group (successor to PHB Hagler Bailly), Cambridge, MA, 2000–2001
Member, Management Group

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PHB Hagler Bailly (successor to Putnam, Hayes & Bartlett), Cambridge, MA, 1997–2000
Senior Vice President

Putnam, Hayes & Bartlett, Inc., Cambridge, MA, 1987–1997
Director

PROFESSIONAL AFFILIATIONS

Member, American Bar Association, Litigation and Environment Sections

Member, American Economic Association

Associate, Environmental Law Institute

Member (former), Boston Bar Association, Environmental Section

Member (former), Information Network for Superfund Settlements

Member (former), editorial board, *Strategic Environmental Management*

CONFERENCES, PRESENTATIONS AND SEMINARS

Allocations in Superfund Settlements Workshop, U.S. EPA, Office of Enforcement, Superfund Division (January 23-24, 1992, Washington, DC).

Information Network for Superfund Settlements, INSS and Morgan, Lewis & Bockius, LLP (Various, 1990-2002).

“Insurance Allocation Methodologies: Approaches and Implications for Coverage,” IBC Conference: *Optimizing Manufactured Gas Plant Insurance Recovery: Pursuing an Effective Settlement Strategy* (November 12-13, 1997, Chicago, Ill.).

Successfully Resolving Multi-Party Hazardous Waste Disputes: Alternatives to Litigation, American Arbitration Association and Clean Sites, Inc. (December 1, 1988, New York, NY).

“Anatomy of an Insurance Coverage Dispute,” American Bar Association: *Environmental Litigation Midyear Meeting* (February 3, 2000, Steamboat Springs, CO).

“Cost Allocation in Private Cost Recovery Cases,” The IBCTHird Annual Executive Forum on Environmental Forensics: *Understanding the Private Cost Recovery Litigation Process Workshop* (June 6, 2000, Washington, DC).

“Order Out of Chaos: Basic Rules of Superfund Cost Allocation,” The Villanova Environmental Law Journal Twelfth Annual Symposium: *Allocation – Litigating Response Cost Contribution Claims Under the Federal Superfund Act* (November 4, 2000, Villanova, PA).

Mealey’s All Sums: Reallocation and Settlement Credits Conference, Mealey’s Conference (November 8, 2004, Boston, MA).

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PUBLICATIONS

- (1) "Second Circuit Reaffirms Key CERCLA Liability Principles," *Mealey's Litigation Report: Superfund*, Vol. 10, No. 1, (April 10, 1997).
- (2) "Examining Risk And Risk Premiums In The Buy-Out Of Environmental Insurance Coverage," with John C. Butler III, Charles J. Queenan III and Shameek Konar, *Mealey's Litigation Report: Insurance*, Vol. 11, No. 33, (July 1, 1997).
- (3) "The Debate Over Orphan Share Allocation," with Allen Kezsbom, *Chemical Waste Litigation Reporter*, Vol. 34, No. 3, (August 1997).
- (4) "EPA's New Municipal Liability Proposal Sidesteps Equitable Allocation By Courts," *Toxics Law Reporter*, Vol. 12, No. 11 (August 13, 1997).
- (5) Comments on EPA's "Municipal Solid Waste Settlement Proposal," Submitted to the EPA pursuant to notice in the *Federal Register* Vol. 62, No. 133, July 11, 1997, page 37231 (August 22, 1997).
- (6) "Unequal Superfund Treatment: CERCLA Dupli-City," *The Environmental Corporate Counsel Report*, Vol. 5, No. 7, (October 1997).
- (7) "No Need To Redefine Orphan Shares," with Allen Kezsbom, *Chemical Waste Litigation Reporter*, Vol. 34, No. 6 (November 1997).
- (8) "Applying Cost Causation Principles in Superfund Allocation Cases," with John C. Butler III, *Environmental Law Reporter*, Vol. 28, No. 2, (February 1998).
- (9) "Landfills: Superfund's Next Frontier?," *Strategic Environmental Management*, Vol. 1, No. 1 (Spring 1998).
- (10) "Aerojet Establishes an Objective Process for Evaluating Defense Costs," with John C. Butler III and Karl L. Killian, *Mealey's Litigation Report: Insurance*, Vol. 12, No. 26, (May 12, 1998).
- (11) "A Note on Cost Causation, Incremental Cost and Superfund Cost Allocation," submitted to the U.S. EPA pursuant to the public participation requirements of CERCLA (June 12, 1998) and subsequently published in *Mealey's Litigation Report: Superfund*, Vol. 11, No. 10, (July 1998).
- (12) "Will Insurance Allocation Ever Be Simple in New Jersey: Comparing Owens-Illinois and Carter-Wallace," *Environmental Claims Journal*, Vol. 10, No. 4, (Summer 1998).
- (13) "Proposed New ASTM Standards for Estimating Environmental Liabilities Signal a Preference for the Use of Decision Analysis and Expected Cost Analysis," with Shameek Konar, *Strategic Environmental Management*, Vol. 1, No. 3 (Spring 1999).
- (14) "Insurance Allocation in New Jersey: The Evolution of Carter-Wallace," *Journal of Insurance Coverage*, Vol. 1 No. 5 (Spring 1999).
- (15) "Basic Economic and Analytical Tools And Their Application in Environmental Analysis," with Shameek Konar, Chapter 5A in Vol. 1 of *Law of Environmental Protection*, (Sheldon M. Novick, ed.). Environmental Law Institute (March 1999).

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- (16) "New Jersey's Highest Court Slams the Door on 'No Stacking' Advocates," with William W. Robertson and Jeffrey A. Cohen, *Environmental Claims Journal*, Vol. 11, No. 4 (Summer 1999).
- (17) "The Allocator's Challenge: Examining Basic Environmental Insurance Allocation Issues," *Conference Paper for the American Bar Association Section of Litigation Environmental Litigation Committee Midyear Meeting* (February 3, 2000).
- (18) "Eight Basic Rules of Superfund Cost Allocation," *Environmental Law Reporter*, Vol. 30, No. 3 (March 2000).
- (19) "Method or Madness: Basic Principles in Equitably Allocating Superfund Response Costs," The IBC Third Annual Executive Forum on Environmental Forensics: Understanding the Private Cost Recovery Litigation Process Workshop (conference paper). Washington DC, June 26, 2000.

TESTIMONY

- (1) *Rockwell International Corporation v. Aetna Casualty & Surety Company*, Superior Court for the State of California, County of Los Angeles. Case No. BC 050 7 67. Testimony on Insurance Allocation and Damages. Deposition, November 30, 1995.
- (2) *B.F. Goodrich v. Murtha*, United States District Court for the District of Connecticut. Docket No. N-87-52 (PCD) All Cases. Testimony on Superfund Cost Allocation. Trial testimony (Direct), May 27-29, 1998.
- (3) *B.F. Goodrich v. Murtha*, United States District Court for the District of Connecticut. Docket No. N-87-52 (PCD) All Cases. Testimony on Superfund Cost Allocation. Trial testimony (Rebuttal), July 2, 1998.
- (4) *Ruetgers-Nease Corporation v. Occidental Chemical Corporation, et al.*, United States Federal District Court, Northern District of Ohio (Eastern Division), Case No. 4:97CV00811. Testimony on Superfund Cost Allocation. Deposition, August 12, 1999.
- (5) *First State Insurance Co. v. Minnesota Mining & Manufacturing Company*, District Court (Second Judicial District) for the State of Minnesota (Ramsey County). Court File No. C8-99-160. Testimony on Defense Cost Assignment, Insurance Allocation and Calculation of Compensatory Damages. Deposition, October 1, 1999. [Confidential Submissions – Filed Under Seal]
- (6) *First State Insurance Co. v. Minnesota Mining & Manufacturing Company*, District Court (Second Judicial District) for the State of Minnesota (Ramsey County). Court File No. C8-99-160. Testimony on Defense Cost Assignment, Insurance Allocation and Calculation of Compensatory Damages. Deposition, February 10, 2000. [Confidential Submissions – Filed Under Seal]
- (7) *First State Insurance Co. v. Minnesota Mining & Manufacturing Company*, District Court (Second Judicial District) for the State of Minnesota (Ramsey County). Court File No. C8-99-160. Testimony on Defense Cost Assignment, Insurance Allocation and Calculation of Compensatory Damages. Trial Testimony (Direct), February 15, 2000. [Confidential Submissions – Filed Under Seal]
- (8) *Procter v. Lockheed Corporation*, Superior Court for the State of California, County of Santa Clara. Case No. 731752. Testimony on Superfund Cost Allocation. Deposition, April 26, 2000.

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- (9) *First State Insurance Co. v. Minnesota Mining & Manufacturing Company*, District Court (Second Judicial District) for the State of Minnesota (Ramsey County) . Court File No. C8-99-160. Testimony on Insurance Allocation. Pre-Filed Trial Testimony (Direct), March 6, 2002. [Confidential Submissions – Filed Under Seal]
- (10) *Rohm and Haas Company v. American Cyanamid Company*, United States District Court for the District of New Jersey, Civil Action No. 99-1891 (DMC) and Civil Action No. 95-1865 (DMC) (Consolidated Cases). Testimony on Superfund Cost Allocation. Deposition, July 12, 2002.
- (11) *RSR Corporation v. A.I.U. Insurance Company*, District Court (71st Judicial District, Harrison County) for the State of Texas. Case No. 93-01 27. Testimony on Insurance Allocation. Deposition, September 13, 2002. [Confidential Submissions – Filed Under Seal]
- (12) *RSR Corporation v. A.I.U. Insurance Company*, District Court (71st Judicial District, Harrison County) for the State of Texas. Case No. 93-01 27. Testimony on Insurance Allocation. Deposition, February 19, 2003. [Confidential Submissions – Filed Under Seal]
- (13) *First State Insurance Co. v. Minnesota Mining & Manufacturing Company*, District Court (Second Judicial District) for the State of Minnesota (Ramsey County) . Court File No. C8-99-160. Testimony on Fees. Deposition, June 30, 2004. [Confidential Submissions – Filed Under Seal]
- (14) *RSR Corporation v. A.I.U. Insurance Company*, District Court (71st Judicial District, Harrison County) for the State of Texas. Case No. 93-01 27. Testimony on Insurance Allocation. Deposition, February 18, 2005. [Confidential Submissions – Filed Under Seal]
- (15) *Reynolds Metals Company and ALCOA, Inc. v. Whittaker Corporation*, C.A. No. V-02-84, United States District Court for the Southern District of Texas, Victoria Division. Case # C.A. NO. V-02-84. Testimony on Superfund Cost Allocation. Deposition, December 7, 2005.
- (16) *Robert M. Friedland v. TIC – The Industrial Company, et.al.*, Civil Action 04-cv-1263-PSF-MEH, United States District Court for the District of Colorado. Testimony on Superfund Cost Allocation. Deposition, November 16, 2006.
- (17) *Viacom International, Inc., v. Admiral Insurance Company, et. al.*, Superior Court of New Jersey, Law Division – Somerset County, Docket No. SOM-L-1739-99. Testimony on Insurance Allocation. Deposition, December 19, 2006. [Confidential Submissions – Filed Under Seal]
- (18) *Thomas & Betts Corporation v. The Travelers Insurance Co., et. al.*, Superior Court of New Jersey, Law Division – Somerset County, Docket No.: MID-L-1997-00. Testimony on Insurance Allocation. Deposition, March 2, 2007. [Confidential Submissions – Subject to Protective Order]
- (19) *In Re Arbitration Between: XIK Corp., et.al. and Honeywell International, Inc. and Domtar Inc.* Reference Number 1220035101. Testimony on Superfund Cost Allocation. Deposition, March 23, 2007. [Confidential Submissions – Filed Under Seal]
- (20) *In Re Arbitration Between: XIK Corp., et.al. and Honeywell International, Inc. and Domtar Inc.* Reference Number 1220035101. Testimony on Superfund Cost Allocation. Trial Testimony, May 8, 2007. [Confidential Submissions – Filed Under Seal]

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- (21) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Deposition (Omaha Lead Site), July 18, 2007.
- (22) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Trial Testimony (Omaha Lead Site), August 9, 2007.
- (23) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Natural Resource Damages. Deposition (Coeur d'Alene Site), August 22, 2007.
- (24) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Natural Resource Damages. Deposition (Everett Site, Tacoma Site), August 29, 2007.
- (25) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Damages and Probabilistic Modeling. Trial (Pre-Filed) Testimony (Tacoma Site), September 26, 2007.
- (26) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Natural Resource Damages. Deposition (Tri-States Sites), October 5, 2007.
- (27) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation and Natural Resource Damages. Trial Testimony (Coeur d'Alene Site), October 11, 2007.
- (28) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation and Natural Resource Damages. Deposition (East Helena), November 2, 2007.
- (29) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Deposition (USIBWC Site), November 14, 2007.
- (30) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Trial (Pre-Filed) Testimony (USIBWC Site), November 30, 2007.
- (31) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Trial Testimony (East Helena Site Private Party Claim), December 10, 2007.
- (32) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation and Damages. Deposition (Tacoma Hylebos PRP Claim), April 16, 2008.
- (33) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation and Damages. Trial Testimony (Tacoma BNSF Claim, Everett Site), April 18, 2008.

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- (34) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation and Damages. Trial Testimony (Tacoma Hylebos PRP Claim), April 22, 2008.
- (35) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Probabilistic Modeling & Discounting Issues, CERCLA Cost Allocation, Natural Resource Damages. Trial Testimony (SEMO Site), May 12, 2008.
- (36) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Deposition Testimony (Manchester / Heritage Minerals PRP Claim), July 17, 2008.
- (37) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Deposition Testimony (Blackhawk Mill / Chino Mines PRP Claim), September 17, 2008.
- (38) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation. Trial Testimony (Blackhawk Mill / Chino Mines PRP Claim), October 3, 2008.
- (39) *In Re: ASARCO, LLC*. U.S. Bankruptcy Court, Southern District of Texas, Corpus Christi Division. No. 05-21207. Testimony on Superfund Cost Allocation and Natural Resource Damages. Deposition Testimony (Omaha Lead Site, Coeur d'Alene Site), May 12, 2009.
- (40) *Intalco Aluminum Corporation v. Central National Insurance Company of Omaha*, Superior Court, Washington, Whatcom County, Docket No. 06-2-01842-3. Testimony on Economic Damages. Deposition Testimony, August 19, 2009

October 2009