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Houston Litigation Boutique Scores \$190M Settlement for Natural Resource Partners

By Natalie Posgate

(Nov. 16) – A few weeks ago, commercial litigator Logan Johnson and his team at Schiffer Hicks Johnson were set to square off in an Illinois courtroom against Missouri-based Foresight Energy in a payment dispute. But on the eve of trial, Foresight, the defendant, decided to settle for \$190 million.

It resulted in a \$25 million payday that Johnson's client, Houston-based Natural Resources, has already received. NRP will continue to receive payments quarterly from Foresight, which is majority-controlled by coal tycoon Bob Murray's company, Murray Energy.

The settlement resolves two separate lawsuits between NRP subsidiary WPP LLC and Foresight regarding a business deal the two had for two of Foresight's coal mines in Illinois.

In March 2015, there was a fire at Foresight's Deer Run Mine near Hillsboro, Illinois. It resulted from spontaneous combustion, which occurs when oxygen interacts with coal. NRP, which owns the coal for the plant, sued Foresight at the end 2015 after it failed to continue making quarterly payments as required in their contract.

Foresight argued that the clause in the contract excused them from the payments to lease the coal since the mine fire was a "force majeure" event – in other words, an "act of God." NRP argued the fire was not an act of God, therefore that portion of the clause did not apply in the contract.

The parties were set to fight this out at a trial beginning at the end of October, but at 10 p.m. on the last working day before trial began, the parties attended a court-conducted settlement conference. Foresight agreed to pay up.

"This was a hard-fought matter that settled literally the day before the trial," Logan said. "I'm thrilled for the client."

Brian Glasser and Nick Johnson of West Virginia-based firm Bailey Glasser, who represented Foresight, did not immediately respond to a request for comment.

Per the terms of the settlement, Foresight

will amend the Hillsboro Energy coal mining lease to provide \$11 million of non-recoupable annual minimum payments to NRP and extend its current lease term through the end of 2033, according to a joint company statement. In return, NRP dismissed all of its claims in that case as well as litigation involving another Foresight plant, Macoupin Energy Shay mine.

Foresight announced in May of this year that it will close the Deer Run Mine.

NRP, a master limited partnership, is a diversified natural resource company that owns interests in coal, aggregates and industrial minerals across the U.S.

The Schiffer Hicks Johnson team also included partner Scott Upchurch, senior counsel Persis Dean and associate Matt Davis.