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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Ga. Mineral Co., Insurer Strike Deal In Talc Coverage Suit

By **Madeline Lyskawa**

Law360 (August 22, 2024, 4:21 PM EDT) -- Phoenix Insurance Co. reached a contingent settlement with a Georgia-based mineral products company in litigation seeking to force the insurer to defend the company against an underlying suit claiming it supplied asbestos-containing talc products.

In a notice filed Wednesday, Phoenix Insurance and Cimbar Performance Materials informed U.S. District Judge William M. Ray II that they had reached the contingent deal, saying they anticipate filing a joint motion to vacate the litigation within three days, once they have executed the settlement agreement. The terms of the deal were not disclosed.

The litigation between the parties dates back to March 2023, when Cimbar **filed its complaint** trying to force Phoenix to defend it against a suit in Massachusetts state court, in which plaintiff Bryce Zundel claims he underwent two medical procedures that administered Cimbar talc products containing asbestos around one of his lungs, causing him to be diagnosed with malignant pleural mesothelioma.

The notice of settlement comes shortly after **Judge Ray rejected Cimbar's motion** for judgment on the pleadings in a late-July order, which held that while the asbestos exclusions in Cimbar's policies do not unambiguously exclude coverage when the company has denied that its talc product contained asbestos, factual disputes require the court to deny the motion.

Cimbar is represented by Amanda M. Leffler of Shumaker Loop & Kendrick LLP and Christopher P. Twyman of Cox Byington Twyman LLP.

Phoenix Insurance is represented by Philip W. Savrin and Rachel Slimmon of Freeman Mathis & Gary LLP and Lynn K. Neuner and Darcy R. Samuelsohn of Simpson Thacher & Bartlett LLP.

The case is United Minerals and Properties Inc. v. The Phoenix Insurance Co., case number 4:23-cv-00050, in the U.S. District Court for the Northern District of Georgia.

--Additional reporting by Tom Lotshaw and Ganesh Setty. Editing by Jay Jackson Jr.

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