

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

CLINTON RILEY, DIANA RILEY,
TERRI JAMES CASSO, and
GLADYS VARGAS,

Plaintiffs,

v.

AREPII SA HOTEL, LLC;
KENNETH GERARD PEDUZZI;
HEI HOTELS, LLC;
MARRIOTT INTERNATIONAL, INC.,
MICHAEL DAWAYNE JOHNSON;
JOHN THOMAS MARLAR III;
LEONARD MCCOY;
UNITED MAINTENANCE, INC.;
TRANE U.S., INC.;
NALCO WATER PRETREATMENT
SOLUTIONS, LLC; ECOLAB, INC.;
JOHN DOE CORPS 1-10; and JOHN
DOES 1-10,

Defendants.

CIVIL ACTION NO.

COMPLAINT AND DEMAND FOR JURY TRIAL

This action arises from Defendants' negligence in the operation and maintenance of the water systems of the Sheraton Atlanta Hotel. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs were exposed to potentially fatal levels of Legionella bacteria. Legionella bacteria live in water and are found naturally in lakes and streams. The bacteria is a known risk to water systems and can be dangerous and lethal when allowed to thrive in man-made water systems. Through the normal operation of water systems, the bacteria become aerosolized and easily infects any person who comes into contact with the bacteria.

1. **PARTIES, JURISDICTION, AND VENUE**

- 1.1. Plaintiff Clinton Riley is a citizen and resident of Texas. By filing this action, Plaintiff submits to the jurisdiction and venue of this Court.
- 1.2. Plaintiff Diana Riley is a citizen and resident of Texas. By filing this action, Plaintiff submits to the jurisdiction and venue of this Court.
- 1.3. Plaintiff Terri James Casso is a citizen and resident of Louisiana. By filing this action, Plaintiff submits to the jurisdiction and venue of this Court.
- 1.4. Plaintiff Gladys Vargas is a citizen and resident of Florida. By filing this action, Plaintiff submits to the jurisdiction and venue of this Court.
- 1.5. Arepii Sa Hotel, LLC (“Arepii”) is a foreign company registered to do business in Georgia. Arepii owns and/or manages the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Arepii owns property in Georgia and maintains a registered agent in Gwinnett County, Georgia. Arepii may be served through Corporation Service Company, which is located at 40 Technology Pkwy South #300, No. 300, Norcross, GA 30092.
 - a) Jurisdiction is proper as to Arepii because it maintains a registered agent in this state, transacts business in this state, committed tortious acts in this state, possesses real property in this state, and its activities within the state proximately caused the damages and harm described herein (O.C.G.A. § 9-10-91).
 - b) Venue is proper in Fulton County because (1) it is a joint tortfeasor with one or more Defendants that are residents of Fulton County and/or (2) the causes of action asserted herein originate in Fulton County and Arepii maintains an office and transacts business in Fulton County (O.C.G.A. §§ 14-11-1108(b) and 14-2-510(3)).

- 1.6. Kenneth Gerard Peduzzi (“Peduzzi”) is the general manager of Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Upon information and belief, Peduzzi is either a citizen and resident of Fulton County, Georgia, or Fulton County, Pennsylvania. Peduzzi may be served at 165 Courtland St. NE, Atlanta, GA 30303. Venue and jurisdiction are proper as to Peduzzi because he is either a resident of Fulton County or a joint tortfeasor with one or more Defendants who are residents of Fulton County.
- 1.7. HEI Hotels, LLC (“HEI Hotels”) is a foreign corporation incorporated in Pennsylvania. HEI Hotels manages the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- a) Despite transacting extensive business in Georgia, HEI Hotels has failed to register an agent with the State of Georgia in violation of O.C.G.A. § 14-2-1501(a). Accordingly, HEI Hotels may be served under the provisions of O.C.G.A. § 14-2-1510.
 - b) Jurisdiction is proper as to HEI Hotels because it transacts business in this state, committed tortious acts in this state, possesses real property in this state, and its activities within the state proximately caused the damages and harm described herein (O.C.G.A. § 9-10-91).
 - c) Venue is proper in Fulton County because (1) it is a joint tortfeasor with one or more Defendants that are residents of Fulton County; (2) HEI Hotels has failed to maintain a registered agent in Georgia and is therefore deemed to reside in the county where it last maintained a registered agent, which was in Fulton County (O.C.G.A. §§ 14-11-1108(b) and 14-2-510(1)); and/or (3) the causes of action asserted herein originate in

Fulton County and HEI Hotels maintains an office and transacts business in Fulton County (O.C.G.A. §§ 14-11-1108(b) and 14-2-510(3)).

- 1.8. Marriott International, Inc. (“Marriott”) is a foreign corporation incorporated in Maryland. Marriott franchises the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Marriott may be served through its registered agent, the CT Corporation System, which is located at 289 S. Culver Street, Lawrenceville, GA, 30046.
 - a) Jurisdiction is proper as to Marriott because it maintains a registered agent in this state, transacts business in this state, committed tortious acts in this state, possesses real property in this state, and its activities within the state proximately caused the damages and harm described herein (O.C.G.A. § 9-10-91).
 - b) Venue is proper in Fulton County because (1) it is a joint tortfeasor with one or more Defendants that are residents of Fulton County and/or (2) the causes of action asserted herein originate in Fulton County and Marriott maintains an office and transacts business in Fulton County (O.C.G.A. § 14-2-510(3)).
- 1.9. Michael Dawayne Johnson (“Johnson”) is an employee and manager of Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Upon information and belief, Johnson is a citizen and resident of Fulton County, Georgia. Johnson may be served at 165 Courtland St. NE, Atlanta, GA 30303. Venue and jurisdiction are proper as to Johnson because he is either a resident of Fulton County or a joint tortfeasor with one or more Defendants who are residents of Fulton County.
- 1.10. John Thomas Marlar III (“Marlar”) is the chief engineer of Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Upon information and belief, Marlar is a citizen and resident of Cobb County, Georgia. Marlar may be served at 165

Courtland St. NE, Atlanta, GA 30303. Venue and jurisdiction are proper as to Marlar because he is a joint tortfeasor with one or more Defendants who are residents of Fulton County

1.11. Leonard McCoy (“McCoy”) is the director of engineering of Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Upon information and belief, McCoy is a citizen and resident of Douglas County, Georgia. McCoy may be served at 165 Courtland St. NE, Atlanta, GA 30303. Venue and jurisdiction are proper as to McCoy because he is a joint tortfeasor with one or more Defendants who are residents of Fulton County.

1.12. United Maintenance, Inc. (“United Maintenance”), is a domestic corporation incorporated in Georgia. United Maintenance may be served through its registered agent, Mark A. Cobb, who is located at 219 East Washington Street, Thomasville, GA, 31792. Jurisdiction is proper as to United Maintenance because it is a domestic corporation. Venue is proper as to United Maintenance because it is a joint tortfeasor with one or more Defendants who are residents of Fulton County.

1.13. Trane U.S., Inc. (“Trane U.S.”), is a foreign corporation incorporated in Delaware. Trane U.S. may be served through its registered agent, the Corporation Service Company, which is located at 40 Technology Pkwy South #300, No. 300, Norcross, GA 30092.

- a) Jurisdiction is proper as to Trane U.S. because it maintains a registered agent in this state, transacts business in this state, committed tortious acts in this state, possesses real property in this state, and its activities within the state proximately caused the damages and harm described herein (O.C.G.A. § 9-10-91).

- b) Venue is proper in Fulton County because (1) it is a joint tortfeasor with one or more Defendants that are residents of Fulton County and/or (2) the causes of action asserted herein originate in Fulton County and Trane U.S. maintains an office and/or transacts business in Fulton County (O.C.G.A. § 14-2-510(3)).

1.14. Nalco Water Pretreatment Solutions, LLC (“Nalco Water”) is a foreign company registered to do business in Georgia. Nalco Water may be served through its registered agent, C T Corporation System, which is located at 289 S Culver Street, Lawrenceville, GA 30046.

- a) Jurisdiction is proper as to Nalco because it maintains a registered agent in this state, transacts business in this state, committed tortious acts in this state, possesses real property in this state, and its activities within the state proximately caused the damages and harm described herein (O.C.G.A. § 9-10-91).
- b) Venue is proper in Fulton County because (1) it is a joint tortfeasor with one or more Defendants that are residents of Fulton County and/or (2) the causes of action asserted herein originate in Fulton County and Trane US maintains an office and/or transacts business in Fulton County (O.C.G.A. § 14-2-510(3)).

1.15. Ecolab, Inc. (“Ecolab”) is a foreign corporation incorporated in Minnesota. Ecolab may be served through its registered agent, the C T Corporation System, which is located at 289 S Culver Street, Lawrenceville, GA 30046.

- a) Jurisdiction is proper as to Ecolab because it maintains a registered agent in this state, transacts business in this state, committed tortious acts in this state, possesses real property in this state, and its activities within the state proximately caused the damages and harm described herein (O.C.G.A. § 9-10-91).

b) Venue is proper in Fulton County because (1) it is a joint tortfeasor with one or more Defendants that are residents of Fulton County and/or (2) the causes of action asserted herein originate in Fulton County and Ecolab transacts business in Fulton County (O.C.G.A. § 14-2-510(3)).

1.16. Defendants John Doe Corps 1-10 are fictitious business names used to preliminarily identify corporations involved in the operation and maintenance of the water systems at the Sheraton Atlanta Hotel. The identities of John Doe(s) 1-10 are unknown to Plaintiffs at this time but are readily ascertainable through Defendants. Once the identities of John Doe(s) are discovered, this Complaint will be amended to substitute any party that is or may be liable to Plaintiffs.

1.17. Defendants John Doe(s) 1-10 are fictitious names used to preliminarily identify individuals involved in the operation and maintenance of the water systems at the Sheraton Atlanta Hotel. The identities of John Doe(s) 1-10 are unknown to Plaintiffs at this time, but are readily ascertainable through Defendants. Once the identities of John Doe(s) 1-10 are discovered, this Complaint will be amended to substitute any party that is, or may be, liable to Plaintiffs.

1.18. Defendants are directly liable for their own corporate negligence, as well as for the acts and omissions of their servants, employees, and agents, by virtue of the doctrines of agency, apparent agency, implied agency, employer/employee relations, master-servant relations, loaned servant relations, joint venture, joint and several liability, respondeat superior, and vicarious liability.

2. **STATEMENT OF FACTS**

2.1. At all times relevant to this action, Defendant Arepii either owned, occupied, managed,

controlled, franchised, and/or otherwise maintained a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.

- 2.2. At all times relevant to this action, Defendant Peduzzi was an employee and manager directly responsible for the maintenance and oversight of a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.3. At all times relevant to this action, Defendant HEI Hotels either owned, occupied, managed, controlled, franchised, and/or otherwise maintained a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.4. At all times relevant to this action, Defendant Marriott either owned, occupied, managed, controlled, franchised, and/or otherwise maintained a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.5. At all times relevant to this action, Defendant Johnson was an employee and manager directly responsible for the maintenance and oversight of a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.6. At all times relevant to this action, Defendant Marlar either owned, occupied, managed, controlled, franchised, and/or otherwise maintained a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.7. At all times relevant to this action, Defendant McCoy either owned, occupied, managed, controlled, franchised, and/or otherwise maintained a commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.8. At all times relevant to this action, Defendant United Maintenance was and is in the business of designing, installing, servicing, and maintaining HVAC systems, including the HVAC and water systems at the commercial site known as the Sheraton Atlanta Hotel

located at 165 Courtland St. NE, Atlanta, GA 30303.

- 2.9. At all times relevant to this action, Defendant Trane U.S. was and is in the business of designing, manufacturing, installing, maintaining, and upgrading HVAC products and systems, including the HVAC and water systems at the commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.10. At all times relevant to this action, Defendant Nalco Water was and is in the business of designing, manufacturing, promoting, advertising, and selling water treatment and process improvement products and services, including for the water systems at the commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.11. At all times relevant to this action, Defendant Ecolab was and is in the business of designing, manufacturing, promoting, advertising, and selling water treatment and process improvement products and services, including for the water systems at the commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.12. Each Plaintiff was present at the Sheraton Atlanta Hotel at some point between April 1, 2019, and July 30, 2019.
- 2.13. Defendants Arepii, Peduzzi, HEI Hotels, and Marriott's operation of the Sheraton Atlanta Hotel is supported exclusively by business invitees. Upon information and belief, these Defendants, through various advertising media, solicit the business of individuals, including Plaintiffs, to its premises for the purposes of renting rooms, attending special events and conferences, and dining.

- 2.14. At all times relevant to this action, each Plaintiff was an invitee at the Sheraton Atlanta Hotel.
- 2.15. Legionella bacteria can grow and multiply in water systems. It poses a significant danger to people utilizing contaminated water systems. Such contaminated water can easily cause illness when water vapor or mist is inhaled. Once inhaled, the Legionella bacteria can cause several health problems, including Legionnaires' Disease, which is a severe form of pneumonia.
- 2.16. Approximately one in ten people who contract Legionnaires' Disease will die from its complications and symptoms, which include coughing, shortness of breath, fever, muscle aches, diarrhea, and headaches. Persons with weakened immune systems are at a heightened risk for contracting Legionnaires' Disease.
- 2.17. The Sheraton Atlanta Hotel has large scale water systems, including pools, hot tubs, decorative fountains, water fountains, refrigeration systems, cooling systems, and potable water systems. Defendants know that hotel water systems are particularly at risk of developing dangerous levels of Legionella bacteria, and it is therefore necessary to develop policies and procedures adequate to prevent a dangerous outbreak of Legionella bacteria.
- 2.18. In a report released on June 7, 2016, the Centers for Disease Control and Prevention ("CDC") stated that Legionnaires' Disease outbreaks generally result from a combination of deficiencies, usually classified as process failures and human errors. In the majority of outbreaks, inadequate water disinfectant levels and temperatures in the optimal range for Legionella bacteria growth were observed.

- 2.19. Responsible franchisors, owners, and managers of large-scale water systems use water management plans that comply with ANSI/ASHRAE Standard 188-2018, Legionellosis: Risk Management for Building Water Systems.
- 2.20. Responsible franchisors, owners, and managers of large-scale water systems use water management plans that includes testing and sanitizing systems designed to prevent an outbreak of Legionella bacteria.
- 2.21. Public safety should be a primary priority for responsible franchisors, owners, and managers of large-scale water systems.
- 2.22. At various points between January 1, 2019, through August 1, 2019, Defendants failed to institute and/or follow adequate water management plans to prevent an outbreak of Legionella bacteria, and a dangerous outbreak of Legionella bacteria did occur at the Sheraton Atlanta Hotel.
- 2.23. At various points between January 1, 2019, through August 1, 2019, Defendants failed to comply with ANSI/ASHRAE Standard 188-2018, Legionellosis: Risk Management for Building Water Systems.
- 2.24. Each Plaintiff came into contact with Legionella bacteria while visiting the Sheraton Atlanta Hotel.
- 2.25. Each Plaintiff came into contact with Legionella bacteria through the normal and anticipated use of the Sheraton Atlanta Hotel's water systems.
- 2.26. Prior to each Plaintiff's visit, Defendant Arepii knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.27. Prior to each Plaintiff's visit, Defendant Peduzzi knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.

- 2.28. Prior to each Plaintiff's visit, Defendant HEI Hotels knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.29. Prior to each Plaintiff's visit, Defendant Marriott knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.30. Prior to each Plaintiff's visit, Defendant Johnson knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.31. Prior to each Plaintiff's visit, Defendant Marlar knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.32. Prior to each Plaintiff's visit, Defendant McCoy knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.33. Prior to each Plaintiff's visit, Defendant United Maintenance knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.34. Prior to each Plaintiff's visit, Defendant Trane U.S. knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.35. Prior to each Plaintiff's visit, Defendant Nalco Water knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.36. Prior to each Plaintiff's visit, Defendant Ecolab knew, or should have known, that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.37. Shortly after visiting the Sheraton Atlanta Hotel, each Plaintiff developed symptoms consistent with exposure to Legionella bacteria and Legionnaires' Disease.

2.38. As a direct and proximate result of Defendants' acts and omissions, each Plaintiff has incurred substantial medical expenses, suffered past and future lost wages, and endured significant physical and mental pain and suffering.

2.39. Plaintiffs did nothing wrong and are not responsible in any way for developing Legionnaires' Disease.

3. **COUNT 1: NEGLIGENCE AGAINST AREPII, PEDUZZI, AND HEI HOTELS**

3.1. As owners, proprietors, managers, and maintenance companies, Defendants Arepii, Peduzzi, and HEI Hotels invited persons onto the premises and encouraged invitees to partake in the amenities on the property. Each of these Defendants owed a duty to invitees on the property, including Plaintiffs, to use ordinary and reasonable care under the circumstances, including keeping the water systems free from harmful pathogens like Legionella bacteria.

3.2. Defendants Arepii, Peduzzi, and HEI Hotels breached their duty to Plaintiffs in one of more of the following ways:

- a) Failing to adequately treat its water system;
- b) Failing to adequately analyze and assess the safety of its water supply and system in light of the risks posed by Legionella bacteria;
- c) Failing to install or implement proper chemical treatments of its water supply;
- d) Failing to adequately perform regular and proper assessments of its water supply and systems, including utilizing inadequate testing protocols;
- e) Failing to adequately train, supervise, inform, and instruct its employees, agents, contractors, or those acting on their behalf regarding the safe operation of its water supply in light of the risks of Legionella bacteria contamination;

- f) Failing to adhere to the relevant ANSI/ASHRAE Standard 188-2018, Legionellosis: Risk Management for Building Water Systems;
- g) Failing to maintain the hotel with the degree of care and caution required of a reasonable and prudent property owner or manager under similar circumstances;
- h) Failing to properly maintain the hotel in a reasonable and safe condition;
- i) Failing to inspect the hotel for dangerous conditions in a timely manner;
- j) Failing to remove and/or repair a dangerous condition from the hotel;
- k) Failing to enact and enforce policies and procedures to keep the hotel in a reasonable and safe condition; and/or
- l) Failing to timely warn guests, including Plaintiffs, of the outbreak of Legionella bacteria.

3.3. Defendants Arepii, Peduzzi, and HEI Hotels individually and/or jointly created a dangerous condition at the Sheraton Atlanta Hotel, which resulted in the widespread presence of Legionella bacteria by: (1) maintaining the Sheraton Atlanta Hotel in a manner that threatened the health and safety of invitees at the subject property; (2) failing to timely and properly remedy this dangerous condition; (3) and failing to timely and properly warn its guests and patrons.

3.4. The dangerous and defective condition complained of herein existed for a protracted period of time such that Defendants Arepii, Peduzzi, and HEI Hotels, in the exercise of reasonable care, knew, or should have known, of the dangerous and defective condition and should have taken steps to remedy the condition and/or warn Plaintiffs prior to their exposure.

- 3.5. Defendants Arepii, Peduzzi, and HEI Hotels, by and through their employees, contractors, agents or those acting on their behalf, had actual notice and knowledge of the dangerous and defective condition and nonetheless failed to timely and properly remedy it or warn exposed and potentially exposed individuals, including Plaintiffs.
- 3.6. In the alternative, Defendants Arepii, Peduzzi, and HEI Hotels, by and through their employees, contractors, agents, or those acting on their behalf, had constructive notice and knowledge of the dangerous and defective condition and nonetheless failed to timely and properly remedy it or warn potentially exposed individuals, including Plaintiffs.
- 3.7. In the alterative, Defendants Arepii, Peduzzi, and HEI Hotels, by and through their employees, contractors, agents, or those acting on their behalf caused, permitted, and/or allowed a dangerous or defective condition to develop and remain at the Sheraton Atlanta Hotel and failed to warn potentially exposed individuals, including Plaintiffs.
- 3.8. The events alleged herein and the dangerous and defective conditions that caused Plaintiffs' illness do not occur in the absence of negligence.
- 3.9. As a direct and proximate result of Defendants Arepii, Peduzzi, and HEI Hotels' negligence, Plaintiffs became infected with Legionella bacteria and have suffered great mental anguish, bodily injuries, past and future pain and suffering, loss of enjoyment of life, diminished quality of life, lost wages, lost earning capacity, past medical expenses, future medical expenses, and other damages to be proven by the enlightened conscience of a fair and impartial jury at the time of trial.

4. **COUNT 2: NEGLIGENCE AGAINST MARRIOTT**

- 4.1. As franchisor and operator, Defendant Marriott invited persons onto the premises and encouraged invitees to partake in the amenities on the property. Defendant owed a duty

to invitees on the property, including Plaintiffs, to use ordinary and reasonable care under the circumstances, including keeping the water systems free from harmful pathogens like Legionella bacteria.

4.2. Defendant Marriott breached their duty to Plaintiffs in one of more of the following ways:

- a) Failing to adequately train, supervise, inform, and instruct its employees, agents, contractors, or those acting on their behalf regarding the safe operation of hotel water supply in light of the risks of Legionella bacteria contamination;
- b) Failing to establish guidelines or policies for franchisees to keep the hotel in a reasonable and safe condition, including treatment and risk assessment of hotel water systems;
- c) Failing to enact and enforce policies and procedures on franchisees to keep the hotel in a reasonable and safe condition;
- d) Failing to promulgate to its franchisees adherence to the relevant ANSI/ASHRAE Standard 188-2018, Legionellosis: Risk Management for Building Water Systems;
- e) Failing to maintain the hotel with the degree of care and caution required of a reasonable and prudent property franchisor, owner, or manager under similar circumstances;
- f) Failing to timely warn guests, including Plaintiffs, of the outbreak of Legionella bacteria.

4.3. Defendant Marriott individually and/or jointly created a dangerous condition at the Sheraton Atlanta Hotel, which resulted in the widespread presence of Legionella bacteria by: (1) franchising and operating the Sheraton Atlanta Hotel in a manner that threatened

the health and safety of invitees at the subject property; (2) failing to timely and properly remedy this dangerous condition; (3) and failing to timely and properly warn its guests and patrons.

- 4.4. The dangerous and defective condition complained of herein existed for a protracted period of time such that Defendant Marriott, in the exercise of reasonable care, knew, or should have known, of the dangerous and defective condition and should have taken steps to remedy the condition and/or warn Plaintiffs prior to their exposure.
- 4.5. In the alternative, Defendant Marriott, by and through its franchisees, employees, contractors, agents or those acting on their behalf, had actual notice and knowledge of the dangerous and defective condition and nonetheless failed to timely and properly remedy it or warn exposed and potentially exposed individuals, including Plaintiffs.
- 4.6. In the alternative, Defendant Marriott, by and through its franchisees, employees, contractors, agents, or those acting on their behalf, had constructive notice and knowledge of the dangerous and defective condition and nonetheless failed to timely and properly remedy it or warn potentially exposed individuals, including Plaintiffs.
- 4.7. In the alternative, Defendant Marriott, by and through its franchisees, employees, contractors, agents, or those acting on their behalf caused, permitted, and/or allowed a dangerous or defective condition to develop and remain at the Sheraton Atlanta Hotel and failed to warn potentially exposed individuals, including Plaintiffs.
- 4.8. The events alleged and the dangerous and defective conditions that caused Plaintiffs' illness do not occur in the absence of negligence.
- 4.9. As a direct and proximate result of Defendant Marriott's negligence, Plaintiffs became infected with Legionella bacteria and have suffered great mental anguish, bodily injuries,

past and future pain and suffering, loss of enjoyment of life, diminished quality of life, lost wages, lost earning capacity, past medical expenses, future medical expenses, and other damages to be proven by the enlightened conscience of a fair and impartial jury at the time of trial.

5. **COUNT 3: NEGLIGENCE AGAINST JOHNSON, MARLAR, MCCOY, UNITED MAINTENANCE, TRANE U.S., NALCO WATER, AND ECOLAB**

- 5.1. Defendants Johnson, Marlar, McCoy, United Maintenance, Trane U.S., Nalco Water, and Ecolab were involved in the water treatment and/or HVAC systems at the Sheraton Atlanta Hotel.
- 5.2. Defendants Johnson, Marlar, McCoy, United Maintenance, Trane U.S., Nalco Water, and Ecolab owed a duty of ordinary and reasonable care under the circumstances, including taking the appropriate actions to ensure that the water systems and/or HVAC systems at the Sheraton Atlanta Hotel are free from harmful pathogens like Legionella bacteria.
- 5.3. Defendants Johnson, Marlar, McCoy, United Maintenance, Trane U.S., Nalco Water, and Ecolab breached their duty to Plaintiffs by failing to exercise reasonable care and implement appropriate standards, procedures, and/or protocols to ensure that water systems and/or HVAC systems at the Sheraton Atlanta Hotel were free from harmful pathogens like Legionella bacteria.
- 5.4. Defendants Johnson, Marlar, McCoy, United Maintenance, Trane U.S., Nalco Water, and Ecolab's negligence individually and/or jointly created a dangerous condition at the Sheraton Atlanta Hotel, which resulted in the widespread presence of Legionella bacteria.

5.5. The events alleged and the dangerous and defective conditions that caused Plaintiffs' illness do not occur in the absence of negligence.

5.6. As a direct and proximate result of Defendants Johnson, Marlar, McCoy, United Maintenance, Trane U.S., Nalco Water, and Ecolab's negligence, Plaintiffs became infected with Legionella bacteria and have suffered great mental anguish, bodily injuries, past and future pain and suffering, loss of enjoyment of life, diminished quality of life, lost wages, lost earning capacity, past medical expenses, future medical expenses, and other damages to be proven by the enlightened conscience of a fair and impartial jury at the time of trial.

6. **COUNT 4: RES IPSA LOQUITUR AGAINST AREPII, PEDUZZI, AND HEI HOTELS**

6.1. Defendants Arepii, Peduzzi, and HEI Hotels, and their employees, agents, contractors, or those acting on their behalf, were solely responsible for maintaining the water systems at the Sheraton Atlanta Hotel.

6.2. At all times relevant to this action, the water systems at the Sheraton Atlanta Hotel were under the exclusive dominion, control, and management of Defendants Arepii, Peduzzi, and HEI Hotels, their employees, agents, contractors, or those acting on their behalf.

6.3. The outbreak of Legionella bacteria and subsequent illness of Plaintiffs would not have occurred in the ordinary course of events had Defendants Arepii, Peduzzi, and HEI Hotels used ordinary and reasonable care in the operation and maintenance of its water systems.

6.4. Plaintiffs did nothing wrong and have no responsibility for contracting Legionnaires' Disease.

7. **PROCEDURAL MATTERS**

- 7.1. The counsel answering this Complaint consents to electronic service of the pleadings as is allowed by O.C.G.A. § 9-11-5(f), and therefore, have placed an e-mail address below the signature block of their answers.
- 7.2. Pursuant to O.C.G.A. § 9-11-45(a)(1)(B), Plaintiffs and Defendants agree that their attorneys who are listed in the pleadings may issue and sign subpoenas for persons sought to be deposed in this action so long as the attorneys follow State Disciplinary Board Advisory Opinion No. 40 by providing deposition notices for each person on whom a subpoena is served.
- 7.3. Defendant Arepii has been properly served with process in this action.
- 7.4. Defendant Peduzzi has been properly served with process in this action.
- 7.5. Defendant HEI Hotels has been properly served with process in this action.
- 7.6. Defendant Marriott has been properly served with process in this action.
- 7.7. Defendant Johnson has been properly served with process in this action.
- 7.8. Defendant Marlar has been properly served with process in this action.
- 7.9. Defendant McCoy has been properly served with process in this action.
- 7.10. Defendant United Maintenance has been properly with process in this action.
- 7.11. Defendant Trane U.S. has been properly served with process in this action.
- 7.12. Defendant Nalco Water has been properly served with process in this action.
- 7.13. Defendant Ecolab has been properly served with process in this action.

8. **DAMAGES**

8.1. As a direct and proximate result of the acts and omissions of Defendants, Plaintiffs suffered injuries and damages. Each Plaintiff seeks compensation from Defendants for any damages that they are entitled under the law, including, but not limited to:

- a) Past, present, and future physical pain and suffering;
- b) Past, present, and future mental pain and suffering;
- c) Past, present, and future medical bills and expenses;
- d) Permanent disability and impairment;
- e) Past, present, and future lost wages;
- f) Lost earning capacity;
- g) Loss of enjoyment of life; and
- h) All such further relief, both general and specific that Plaintiffs are entitled to.

8.2. Plaintiffs request a trial by jury.

WHEREFORE Plaintiffs pray that they be granted the following relief:

- (1) That Plaintiffs have a trial by jury as to each and every appropriate issue;
- (2) Judgment against Defendants;
- (3) Judgment for Plaintiffs against Defendants for past, present, and future physical pain and suffering;
- (4) Judgment for Plaintiffs against Defendants for past, present, and future mental pain and suffering;
- (5) Judgment for Plaintiffs against Defendants for past, present, and future medical bills and expenses;

- (6) Judgment for Plaintiffs against Defendants for past, present, and future permanent disability and impairment;
- (7) Judgment for Plaintiffs against Defendants for past, present, and future lost earnings and income in an amount to be set forth more specifically by way of amendment;
- (8) Judgment for Plaintiffs against Defendants for past, present, and future loss of enjoyment of life; and
- (9) Any and all such further relief as the Court may deem just and appropriate.

Submitted this 24th day of March, 2020.

/s/ J. Parker Miller
J. Parker Miller
Georgia Bar No. 135183
Attorney for Plaintiff

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