

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: PERSONAL INJURY

Christopher Jones and
Kathryn Jones,

Court File:
Judge:

Plaintiffs,

COMPLAINT

v.

Citrus Systems, Inc., a Minnesota
corporation,

Defendant.

Plaintiffs, by and through their counsel Ryan Osterholm and Brendan J. Flaherty,
for their Complaint state and allege the following:

PARTIES

1. Plaintiffs Christopher Jones and Kathryn Jones are husband and wife and are adult residents of Edina, Minnesota.
2. Defendant Citrus Systems, Inc. (hereafter "Citrus") is a Minnesota corporation with its corporate offices located at 125 Jackson Avenue North, Hopkins, Minnesota 55343.
3. Defendant Citrus is engaged in the ownership, management, and operation of a beverage and juice manufacturing facility and property located at 415 11th Avenue South, Hopkins, Minnesota (hereafter "Manufacturing Facility").
4. In August 2016 and at all relevant times, Defendant Citrus owned,

occupied, possessed, controlled, managed, and/or maintained the premises, including the water, plumbing, refrigeration, and cooling systems, at its Manufacturing Facility.

5. Defendant's Manufacturing Facility was the source of a bacterial pathogen known as *Legionella* that caused an outbreak of human illnesses in the Hopkins area in August and September of 2016.

6. Plaintiff Christopher Jones contracted a severe case of Legionnaires' disease as part of that outbreak.

Legionella and Commercial Water Systems

7. Bacterial species of *Legionella* can grow and multiply in commercial water systems and poses a significant danger to people living and working around those systems.

8. Cooling towers used for large buildings are a known source of *Legionella* contamination.

9. Contaminated water can easily cause illness when water vapor or mist is inhaled. If that vapor or mist is inhaled, the *Legionella* bacteria can cause Legionnaires' disease.

10. Legionnaires' disease can be very serious. Approximately one in ten people who contract the disease will die from complications. Symptoms include cough, shortness of breath, fever, muscle aches, and headache. Severe cases can result in lung failure.

11. In a report released on June 7, 2016, the Centers for Disease Control and Prevention (CDC) stated that Legionnaires' outbreaks generally resulted from a

combination of deficiencies, most frequently classified as process failures and human errors. In the majority of outbreaks, inadequate water disinfectant levels and temperatures in the optimal range for *Legionella* growth were observed. Deficiencies related to equipment failures and unmanaged external changes were less common but the CDC found those were also remediable through preventive measures, such as flushing of potable water systems.

12. Because of the well-known risks posed by *Legionella* in large-scale water systems, including cooling towers, responsible property owners and responsible manufacturing facilities use water management plans that include testing and sanitizing systems designed to prevent the bacteria.

13. The CDC and others set standards for developing a water management program that is appropriate for a particular facility. For example, the CDC publishes a guide called “Developing a Water Management Program to Reduce *Legionella* Growth and Spread in Buildings” that is widely available. Any management plan, particularly for manufacturing facilities, however, must account for the unique aspects of the building’s function and design.

14. Upon information and belief, prior to August 2016, Defendant did not conduct adequate tests of its water system or verify the effectiveness of its sanitizing system.

15. Upon information and belief, prior to August 2016, Defendant did not have a water management plan in place that was sufficient to prevent the growth of *Legionella* bacteria in its cooling towers and water systems.

Citrus Outbreak

16. The Minnesota Department of Health (MDH) actively monitors and investigates any reported Legionnaires' case in the state.

17. In August of 2016, MDH began receiving multiple reports of Legionnaires' cases, all with a connection to the City of Hopkins.

18. MDH, in conjunction with the Hennepin County Public Health Department and the City of Hopkins, launched a full-scale epidemiological investigation to determine the source of the illnesses.

19. On September 26, 2016, MDH confirmed that Defendant had cooling towers at its Manufacturing Facility. MDH then obtained samples from Defendant's cooling towers.

20. Microbiological testing of these samples found positive bacterial growth for *Legionella* from one of Defendant's two cooling towers.

21. These samples were then analyzed further using state-of-the-art genetic fingerprinting technology known as pulsed-field gel electrophoresis (PFGE) and whole genome sequencing (WGS). PFGE and WGS generated a DNA fingerprint of the bacteria found in the Manufacturing Facility.

22. The DNA fingerprint of the samples from Defendant's water tower were an exact match to the DNA fingerprints of *Legionella* samples from four patients who had contracted Legionnaires' disease in Hopkins, including a sample obtained from Mr. Jones.

23. Based on this testing and the geographic distribution of cases, MDH concluded that the outbreak, including Plaintiff's illness, was caused by community-wide exposure to a contaminated aerosol from Defendant's Manufacturing Facility.

24. The outbreak sickened a total of 23 people. Seventeen of those, including Plaintiff, were hospitalized, and one individual died.

25. After Defendant chemically cleaned its water towers, the outbreak stopped. The last person to contract the disease became ill on September 22, 2016.

Christopher Jones's Legionnaires' Infection

26. In August 2016, Christopher Jones worked at Luther Hopkins Honda car dealership located at 250 5th Avenue South, Hopkins, Minnesota 55343. The dealership is adjacent to Defendant's Manufacturing Facility.

27. During Mr. Jones's time around the Manufacturing Facility, he was exposed to a contaminated aerosol originating from Defendant's Manufacturing Facility.

28. By late August of 2016, Mr. Jones developed a fever and uncharacteristic fatigue.

29. On August 29, 2016, he was examined by his primary care physician. He had a fever of over 102 degrees. Soon after that appointment, he was admitted to Fairview Southdale Hospital.

30. Mr. Jones's condition was critical and he was transferred to the intensive care unit of the hospital where he remained for more than two weeks.

31. Testing on Mr. Jones revealed the presence of the *Legionella* bacteria.

32. Further testing by PFGE and WGS analysis showed that the sample from Mr. Jones matched samples taken from Defendant's Manufacturing Facility.

33. As a result of the infection, Mr. Jones sustained and will continue to sustain significant physical and emotional injuries, including mental anguish and the loss of enjoyment of life, now and into the future.

34. As a result of the infection, Plaintiff has also incurred and will incur substantial medical bills, including hospital, physician, pharmacy, and rehabilitation expenses, among many others.

35. As a result of the infection, Mr. Jones has also suffered a loss of income and future earning capacity.

COUNT ONE – NEGLIGENCE

36. Plaintiffs reallege and incorporate by reference the preceding paragraphs as if fully rewritten herein.

37. Throughout August of 2016, Mr. Jones worked in the vicinity of Defendant's Manufacturing Facility.

38. Mr. Jones contracted *Legionella* pneumonia as a result of exposure to contaminated water from Defendant's Manufacturing Facility.

39. The water that Mr. Jones was exposed to was contaminated with the pathogen *Legionella*, and unsafe for Mr. Jones to intake in any form.

40. As a result of coming into contact with contaminated water from Defendant's Manufacturing Facility, Mr. Jones contracted a life threatening *Legionella* pneumonia infection.

41. As owner and operator of the Manufacturing Facility, Defendant was responsible for the inspection, repair, and maintenance of its water systems, including the cooling towers.

42. Defendant owed a duty to the public, including Plaintiff, to exercise due care in the operation of its Manufacturing Facility, including the maintenance of its water systems, including the cooling towers. Specifically, Defendant owed a duty to make sure that *Legionella* did not colonize its water systems or aerosolize through the community.

43. Defendant, by and through its agents and employees, negligently operated the Manufacturing Facility in a manner which allowed *Legionella* to colonize its water system, grow, and ultimately be discharged into the community.

44. Defendant, by and through its agents and employees, was negligent in failing to inspect, detect, correct, remove, and repair its facility.

45. Defendant, by and through its agents and employees, knew, or by the exercise of due care for the safety of its premises, should have known of the defective and hazardous condition existing at the Manufacturing Facility, and that the failure to inspect, detect, correct, remove, and repair said conditions was likely to result in the injuries suffered by Mr. Jones.

46. Defendant, by and through its agents and employees, negligently failed to implement and follow appropriate policies and procedures regarding the inspection and maintenance of the water system.

47. In summary, Defendant, by and through its agents and employees, breached its duty to the public, including Plaintiffs, by committing the following acts and omissions:

- a. failing to have a water management plan in place that was sufficient to prevent the growth of *Legionella* bacteria in its Manufacturing Facility;
- b. failing to properly inspect, safeguard, and maintain the premises;
- c. failing to adequately test the water and cooling towers;
- d. failing to adequately verify the effectiveness of its water sanitization processes;
- e. failing to adequately train and supervise its employees, agents or those acting on its behalf; and
- f. other acts and omissions as revealed through discovery.

48. As a direct and proximate result of Defendant's negligence, Plaintiff Christopher Jones has suffered damages as set forth above.

COUNT TWO - NUISANCE

49. Plaintiffs incorporate by reference all preceding paragraphs as if fully rewritten herein.

50. *Legionella* is injurious to health, particularly when aerosolized and discharged into the environment.

51. Defendant's discharge of water vapor or mist that carried the *Legionella* bacteria is therefore a nuisance under Minnesota Statutes § 561.01.

52. The aerosolized *Legionella*-contaminated water discharged by Defendant sickened Plaintiff Christopher Jones as set forth above.

53. Plaintiffs are therefore entitled to damages under Minnesota Statutes § 561.01.

COUNT THREE – RES IPSA LOQUITUR

54. Plaintiffs incorporate by reference all preceding paragraphs as if fully rewritten herein.

55. Defendant, by and through its agents and/or employees, was solely responsible for maintaining the water system so that it was free of pathogens.

56. The water system was under the exclusive management and control of Defendant, its agents and/or employees.

57. Mr. Jones's infection with *Legionella* would not have happened in the ordinary course of events if Defendant had used reasonable care in operating and maintaining its water system.

58. Mr. Jones's actions did not cause the water to become contaminated with *Legionella*.

59. Mr. Jones's actions in no way contributed to his *Legionella* infection.

60. Plaintiff Christopher Jones sustained damages as set forth in the preceding paragraphs and Defendant is responsible pursuant to the doctrine of *res ipsa loquitur*.

COUNT FOUR – LOSS OF CONSORTIUM

61. Plaintiffs incorporate by reference all preceding paragraphs as if fully rewritten herein.

62. Plaintiff Kathryn Jones is the wife of Christopher Jones.

63. As a direct and proximate result of the Defendant's negligence and resulting injuries to Christopher Jones, Kathryn Jones has been damaged through a loss of consortium and other services.

WHEREFORE, Plaintiffs pray for judgment against the Defendant in an amount far greater than Fifty-Thousand Dollars (\$50,000.00); for statutory interest on all accrued claims; and for costs and disbursements incurred in the prosecution of this action.

ACKNOWLEDGMENT

The undersigned hereby acknowledges that sanctions may be imposed pursuant to Minn. Stat. § 549.211, subd. 1.

Respectfully submitted,

Dated: October 12, 2016

Pritzker Hageman, P.A.

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