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**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

GERMANY GREER,

Plaintiff

v.

AREPII SA HOTEL, LLC;
THE ARDEN GROUP, INC.;
KENNETH GERARD PEDUZZI;
HEI HOTELS, LLC; AND
JOHN DOE CORPS 1-10,

Defendants

CIVIL ACTION NO.

COMPLAINT AND DEMAND FOR JURY TRIAL

This action arises from Defendant's 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, Plaintiff was one of many who were exposed to potentially fatal levels of legionella bacteria. Legionella bacteria live in water and are found naturally in lakes and streams. The bacteria can be dangerous and lethal when allowed to thrive in man-made water systems. Once the bacteria reaches decorative fountains, cooling systems, and pools, it becomes aerosolized and easily infects any person who comes in contact with the bacteria.

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

- 1.1. Plaintiff is a citizen and resident of Georgia. By bringing this action, Plaintiff submits to the jurisdiction and venue of this Court.
- 1.2. Arepii Sa Hotel, LLC, 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. Venue is proper as to Arepii because it maintains a registered agent in Gwinnett County.
- 1.3. The Arden Group, Inc., is a foreign corporation incorporated in Pennsylvania. Arden Group owns and/or manages the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Arden Group may be served through its President, Craig A. Spencer, at FL 171635 Market St., Philadelphia, PA 19103. Venue and jurisdiction are proper as to Arden Group because it is a joint tortfeasor with one or more defendants who are residents of the forum county.
- 1.4. Kenneth Gerard Peduzzi is the general manager of Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303. Peduzzi is a citizen and resident of Fulton County, Georgia. Peduzzi may be served with process at 165 Courtland St. NE, Atlanta, GA 30303. Venue and jurisdiction are proper as to Peduzzi because he is a joint tortfeasor with one or more Defendants who are residents of the forum county.
- 1.5. HEI Hotels, LLC is a foreign corporation incorporated in Pennsylvania. HEI Hotels manages the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA

30303. HEI Hotels may be served through its registered agent, the Corporation Trust Company, which is located at Corporation Trust Center, 1209 Orange St., Wilmington, DE. Venue and jurisdiction are proper as to HEI Hotels because it is a joint tortfeasor with one or more defendants who are residents of the forum county.

1.6. 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 Atlanta Sheraton. The identities of John Doe(s) 1-10 are unknown to Plaintiff 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 Plaintiff.

1.7. 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, vicarious liability, and contract.

2. STATEMENT OF FACTS

2.1. At all times relevant to this action, Defendant Arepii either owned, occupied, managed, controlled, and 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 Arden Group either owned, occupied, managed, controlled, and/or otherwise maintained 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 Peduzzi either owned, occupied, managed, controlled, and/or otherwise maintained 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 HEI Hotels either owned, occupied, managed, controlled, and/or otherwise maintained commercial site known as the Sheraton Atlanta Hotel located at 165 Courtland St. NE, Atlanta, GA 30303.
- 2.5. Plaintiff Greer was present at the Sheraton Atlanta Hotel on June 27, 28, 29, 30, and July 1.
- 2.6. Defendants' 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 Plaintiff, to its premises for the purposes of renting rooms, attending special events and conferences, and dining.
- 2.7. At all times relevant to this action, Plaintiff Greer was an invitee at the Sheraton Atlanta Hotel.
- 2.8. 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.
- 2.9. Approximately one in ten people who contract Legionnaire's Disease will die from its complications and symptoms, which include coughing, shortness or breath, fever,

muscle aches, diarrhea, and headache. Persons with weakened immune systems are at a heightened risk for Legionnaire's Disease.

- 2.10. 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.
- 2.11. In a report released on June 7, 2016, the Centers for Disease Control and Prevention (herein "CDC") stated that Legionnaire's 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 growth were observed.
- 2.12. Responsible 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.
- 2.13. Responsible 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.
- 2.14. Public safety should be a primary priority for responsible owners and manager of large-scale water systems.
- 2.15. 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.

- 2.16. 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.
- 2.17. Plaintiff came into contact with Legionella bacteria while present at the Sheraton Atlanta Hotel.
- 2.18. Plaintiff came into contact with Legionella bacteria through the normal and anticipated use of the Sheraton Atlanta Hotel's water systems.
- 2.19. Prior to June 27, 2019, Defendant Defendant Arepii knew or should have known that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.20. Prior to June 27, 2019, Defendant Defendant Arden Group knew or should have known that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.21. Prior to June 27, 2019, Defendant Peduzzi knew or should have known that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.22. Prior to June 27, 2019, Defendant HEI Hotels knew or should have known that dangerous levels of Legionella bacteria were present at the Sheraton Atlanta Hotel.
- 2.23. Shortly after being present at the Sheraton Atlanta Hotel, Plaintiff developed symptoms consistent with exposure to Legionella bacteria and Legionnaires Disease.
- 2.24. Plaintiff subsequently tested positive for Legionnaire's Disease.
- 2.25. As a direct and proximate result of Defendants' actions and inactions, Plaintiff has incurred substantial medical expenses, suffered past and future lost wages, and endured significant pain and suffering.

2.26. Plaintiff did nothing wrong and is not responsible in any way for developing Legionnaire's Disease.

3. COUNT 1: NEGLIGENCE (ALL DEFENDANTS, JOINTLY AND INDIVIDUALLY)

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

3.2. Defendants breached their duty to Plaintiff 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;
- 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 contamination;
- f) Failing to adhere to relevant portions of 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 procedure to keep the hotel in a reasonable and safe condition; and/or
- l) Failing to timely warn guests, including Plaintiff, of the outbreak of Legionella bacteria.

3.3. Defendants individually and/or jointly created a dangerous condition at the Sheraton Atlanta Hotel which resulted in the widespread presence of Legionella by maintaining it in a manner that threatened the health and safety of invitees at the subject property, including Plaintiff, and failed to timely and properly remedy this dangerous condition and warn its guests and patrons.

3.4. The dangerous and defective condition complained of herein existed for a protracted period of time prior to Plaintiff's illness such that Defendants, 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 Plaintiff prior to his exposure.

3.5. Defendants, 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 individuals, including Plaintiff.

3.6. In the alternative, Defendants, 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 Plaintiff.

- 3.7. In the alternative, Defendants, 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 exposes individuals, including Plaintiff.
- 3.8. The events alleged and the dangerous and defective condition that caused Plaintiff's illness does not occur in the absence of negligence.
- 3.9. As a direct and proximate result of Defendants' negligence, Plaintiff became infected with Legionella, tested positive for Legionnaire's Disease, and has suffered great mental anguish, bodily injuries, 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 proved at trial.

4. COUNT 2: RES IPSA LOQUITUR (ALL DEFENDANTS, JOINTLY AND INDIVIDUALLY)

- 4.1. Defendants and their employees, agents, contractors – or those acting on their behalf – were solely responsible for maintaining the water systems at the Sheraton Atlanta Hotel.
- 4.2. 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, their employees, agents, contractors, or those acting on their behalf.
- 4.3. The outbreak of Legionella and subsequent illness of Plaintiff would not have occurred in the ordinary course of events had Defendants used reasonable care in the operation and maintenance of its water systems.

4.4. Plaintiff did nothing wrong and has no responsibility for contracting Legionnaire's Disease.

5. PROCEDURAL MATTERS

5.1. 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.

5.2. Pursuant to O.C.G.A. § 9-11-45(a)(1)(B), Plaintiff 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.

5.3. Defendant Arepii has been properly served with process in this action.

5.4. Defendant Arden Group has been properly served with process in this action.

5.5. Defendant Peduzzi has been properly served with process in this action.

5.6. Defendant HEI Hotels has been properly served with process in this action.

6. DAMAGES

6.1. As a direct and proximate result of the acts and omission of Defendants, Plaintiff suffered injuries and damages. Plaintiff seeks compensation from Defendants for any damages that he is 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;
 - h) All such further relief, both general and specific that Plaintiff is entitled to
- 6.2. Plaintiff requests a trial by jury.

This 12th day of August 2019.

STEWART TRIAL LAW, P.C.

/s/ L. Chris Stewart

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