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NY Building Owner Sued Over Legionnaires' Disease Outbreak

By **Jack Queen**

Law360 (August 8, 2019, 1:27 PM EDT) -- A New York City housing nonprofit is facing at least four lawsuits over a pair of Legionnaires' disease outbreaks that sickened scores of people and killed two in Manhattan's Washington Heights neighborhood last summer.

Sarah Childs and Damien Lyles filed complaints against Broadway Housing Communities in state court on Monday and Tuesday, saying they contracted severe cases of the vapor-borne, pneumonia-like disease that could be traced to a contaminated cooling tower atop the Sugar Hill Project, an affordable housing development owned by the group in Harlem.

The two lawsuits accuse the nonprofit of negligence and violation of state sanitary codes for failing to monitor and clean the cooling tower, which was implicated by city health officials in two Legionnaires' outbreaks that sickened more than 60 people in summer 2018. Two other residents, Carmelita Jones and Vivian Weeks, filed similar lawsuits in February.

The lawsuits also name Clarity Water of Technologies, said to have been hired to clean and monitor the cooling towers. The suits accuse the companies of negligence and violations of cooling tower regulations enacted after a recent wave of Legionnaires' cases in New York.

All four residents say they suffered extended hospitalizations after contracting the disease, which is caused by a bacteria that grows in warm water and is particularly dangerous to the elderly and people with weakened lungs or immune systems. Outbreaks can often be traced to air conditioners and cooling towers.

"The problem is you have this recirculating water in these units that is shooting vapor into the air," said Scott Harford, who represents all four plaintiffs. "This is a growing epidemic in New York."

Harford said that some of the people sickened in last summer's outbreaks didn't live in the neighborhood but had walked near the tower while it was contaminated. Weeks, for instance, does not live near Sugar Hill but had been attending services at a nearby church when she fell ill during the second outbreak in October, according to her complaint.

The first outbreak in Washington Heights was reported on July 11, 2018, and sickened 27, leading to 25 hospitalizations and one death, according to the New York City Health Department. The cluster of cases was traced to Sugar Hill's cooling tower, which was cleaned two days later, according to a press release.

A second outbreak occurred in October, sending 32 people to the hospital and leading to one death. Bacteria found in the Sugar Hill cooling tower again matched the strains found in the affected patients, according to the health department. It was the first time two Legionnaires' outbreaks had been linked to the same cooling tower in New York City, the agency said.

Gov. Andrew Cuomo imposed emergency regulations aimed at preventing Legionnaires' outbreaks after at least 130 people were sickened in the Bronx in 2015. They have since become permanent, regulating cooling towers across the state.

Broadway Housing Communities and Clarity Water could not be reached for comment. Their attorneys did not respond to requests for comment.

Childs and her fellow plaintiffs are represented by Scott A. Harford of Harford PC.

Broadway Housing Communities is represented by Vanessa A. Fuerth of Wilson Elser Moskowitz Edelman & Dicker LLP.

Clarity Water is represented by John F. Parker of Goldberg Segalla.

The cases are Sarah Childs v. Broadway Housing Communities Inc. et al., case number 157614/2019, Damien Lyles v. Broadway Housing Communities Inc. et al., case number 157677/2019, Carmelita Jones v. Broadway Housing Communities Inc. et al., case number 151782/2019, and Vivian Weeks v. Broadway Housing Communities Inc. et al., case number 151665/2019, all in the New York Supreme Court.

--Editing by Rebecca Flanagan.

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