

12-Person Jury

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DOROTHY BROWN
CIRCUIT CLERK
COOK COUNTY, IL
2019L009099

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

JOYCE WALKER,)
)
Plaintiff,)
)
v.)
)
RUSH OAK PARK HOSPITAL, INC.,)
and RUSH OAK PARK HOSPITAL,)
)
Defendants.)

Case No.

JURY TRIAL DEMANDED

COMPLAINT

NOW COME the Plaintiff, JOYCE WALKER, by and through her attorneys, SEIDMAN, MARGULIS & FAIRMAN, LLP, complaining of Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, state as follows:

1. At all times relevant and material herein, Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, were and are Illinois-domiciled entities doing business in Cook County, Illinois.

2. At all times relevant and material herein, Plaintiff, JOYCE WALKER, resided in Cook County, Illinois.

3. On and before July 15, 2019, and at all times relevant and material, Defendants owned, operated, managed, maintained and/or controlled the premises located at 520 S. Maple Ave., Oak Park, Illinois, commonly known as “Rush Oak Park Hospital” (hereinafter the “Hospital”).

4. On or about July 15, 2019, Plaintiff, JOYCE WALKER, was seen as a patient in the Hospital.

5. Plaintiff was a patient in the Hospital from on or about July 15, 2019 through on or about July 17, 2019.

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6. On and before July 15, 2019 through July 17, 2019, and at all times relevant and material, there was dangerous Legionella bacteria present at the Hospital.

7. In May, 2019, prior to Plaintiff's visit to the Hospital, a different patient in the Hospital was confirmed to have Legionnaire's Disease during or shortly after their visit to the Hospital.

8. Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, had actual knowledge of this May, 2019 potential outbreak of dangerous Legionella bacteria, prior to Plaintiff's visit to the Hospital.

9. In fact, well before Plaintiff's visit to the Hospital, Defendants self-reported this prior potential outbreak of dangerous Legionella bacteria to the state via the state's reporting system, Illinois' National Electronic Disease Surveillance System.

10. Thereafter, still prior to Plaintiff's visit to the Hospital, Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, were in communication with state and/or local governmental public health bodies regarding this Hospital's potential outbreak of dangerous Legionella bacteria.

11. Upon information and belief, in spite of Defendants' knowledge of the significant risk that patients were exposed to dangerous Legionella bacteria present in the Hospital, Defendants took no Legionella outbreak remediation actions prior to Plaintiff's visit to the Hospital.

12. On or about July 15, 2019 through July 17, 2019, Plaintiff JOYCE WALKER was exposed to Legionella bacteria while at the Hospital.

13. On and before July 15, 2019 through July 17, 2019, and at all times relevant and material, Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK

HOSPITAL, knew, or in the exercise of ordinary care should have known, that Legionella bacteria had been present, and was still present at the Hospital.

14. At all times relevant and material, Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, had a duty to operate, manage, maintain, and otherwise control the Hospital in a reasonably safe manner so that the Hospital was free and clear from hazards for those lawfully in the Hospital, including Plaintiff, JOYCE WALKER.

15. On and before July 15, 2019 through July 17, 2019, and at all times relevant and material, the presence of Legionella bacteria at the Hospital presented an unreasonable risk of harm to Plaintiff JOYCE WALKER.

16. On and before July 15, 2019 through July 17, 2019, and at all times relevant and material, Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, were negligent in one or more of the following ways:

- a. Failed to timely and properly maintain, service, inspect, monitor and test the premises and the equipment in the Hospital, in order to prevent the formation and proliferation of Legionella bacteria;
- b. Failed to timely and properly implement the use of point-of-use filters including 0.2 micron point-of-use filters, chlorine, chlorine dioxide, copper-silver ionization, moist heat sterilization and flushing, ultraviolet light, and/or other means of Legionella bacteria prevention and eradication;
- c. Failed to create and implement appropriate control measures to ensure that the Hospital was free and clear from dangerous Legionella bacteria;
- d. Failed to maintain appropriate water temperatures and biocide levels in water in the Hospital, in order to prevent the formation and spread of dangerous Legionella bacteria;
- e. Failed to detect the presence of dangerous Legionella bacteria in the Hospital, when in the exercise of reasonable care, it should have detected said bacteria;

- f. Failed to remove or otherwise eradicate dangerous Legionella bacteria, from the Hospital, when it knew, or in the exercise of reasonable care should have known, of the presence of such dangerous bacteria;
- g. Failed to timely notify and warn those lawfully in the Hospital, including patients such as Plaintiff, that their presence in the Hospital would present a risk of exposure to Legionella bacteria and a risk of developing Legionnaires' Disease;
- h. Failed to take adequate measures to barricade affected areas of the Hospital so as to prevent those lawfully in the Hospital, including patients such as Plaintiff, from exposure to Legionella bacteria and a risk of developing Legionnaires' Disease;
- i. Failed to timely notify and warn Plaintiff that she had been exposed to Legionella bacteria and put at risk for Legionnaires' Disease.

17. As a proximate result of one or more of the aforementioned negligent acts or omissions of Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, Plaintiff, JOYCE WALKER, contracted Legionnaires' Disease and suffered injuries of a personal and pecuniary nature.

18. As further and direct proximate result of the aforementioned negligence, Plaintiff, JOYCE WALKER, sustained serious, painful and permanent personal injuries, incurred medical expenses in relation to the same, lost wages and/or income, sustained a loss of a normal life, will continue to suffer said injuries, incur medical expenses, lose wages and/or income, and sustain a loss of a normal life in the future.

WHEREFORE, Plaintiff, JOYCE WALKER, demands judgment against Defendants, RUSH OAK PARK HOSPITAL, INC., and RUSH OAK PARK HOSPITAL, for a sum in excess of the jurisdictional limits of the Law Division of the Circuit Court of Cook County, Illinois.

JURY DEMAND

Plaintiff hereby demands that this matter be tried to a jury.

Respectfully submitted,

SEIDMAN MARGULIS & FAIRMAN, LLP



Attorney for Plaintiff

Steven J. Seidman
Daniel R. Seidman
SEIDMAN MARGULIS & FAIRMAN, LLP
20 S. Clark St., Ste. 700
Chicago, IL 60603
(312) 781-1977
f: (224) 603-8345
sseidman@seidmanlaw.net
dseidman@seidmanlaw.net
Firm ID: 57415