

COMMONWEALTH OF MASSACHUSETTS

BERKSHIRE, ss

SUPERIOR COURT DEPARTMENT

KATHLEEN SULLOCK, as Personal  
Representative of the Estate of PETER  
SULLOCK, deceased, and

TINA SANGINETTI, as Personal  
Representative of the Estate of JUDY  
HOULE, deceased,

Plaintiffs,

v.

BERKSHIRE HEALTH SYSTEMS, INC.;  
NALCO COMPANY LLC; and CLARITY  
WATER TECHNOLOGIES LLC,

Defendants.

Civil Action No.

**COMPLAINT AND DEMAND FOR JURY TRIAL**

1. Plaintiff Kathleen Sulock, as Personal Representative of the Estate of Peter Sulock, and Plaintiff Tina Sanginetti, as Personal Representative of the Estate of Judy Houle, deceased, (collectively “Plaintiffs”) by and through their counsel of record, bring this action for damages arising out of Defendants’ failure to properly maintain the water systems at Berkshire Medical Center, and the resulting wrongful deaths of Decedent Peter Sulock and Decedent Judy Houle (collectively “Decedents”) from *Legionella* infections.

**PARTIES AND JURISDICTION**

2. At all relevant times, Defendant Berkshire Health Systems, Inc., formerly known as Berkshire Medical Center, Inc. (“Berkshire”), was a Massachusetts nonprofit corporation with a principal place of business located at 725 North Street, Pittsfield, MA 01201.

3. At all relevant times, Defendant Berkshire owned, operated, and maintained a Massachusetts hospital, known as Berkshire Medical Center (“BMC”), located at 725 North Street, Pittsfield, MA 01201.

4. At all relevant times, Defendant Nalco Company LLC, doing business as Nalco Water, an Ecolab Company (“Nalco Water”), was an Illinois limited liability company with a principal place of business located at 1601 West Diehl Road, Naperville, Illinois 60563. Nalco Water is registered to do business in Massachusetts, with its registered agent, CT Corporation System, located at 155 Federal St., Ste 700, Boston, MA 02110.

5. Upon information and belief, Nalco Water was retained by BMC to provide water-treatment services, water-safety consulting, *Legionella* testing and monitoring, and to assist in the development, implementation, and evaluation of BMC’s Water Management Program.

6. At all relevant times, Defendant Clarity Water Technologies LLC (“Clarity Water”) was an Ohio limited liability company with a principal place of business located at 87 Hunt Road, Orangeburg, NY 10962. Clarity Water’s registered agent, CT Corporation System, is located at 4400 Easton Commons Way, Suite 125, Columbus, OH 43219.

7. Upon information and belief, Clarity Water was retained by BMC to provide ongoing water-treatment services for BMC’s cooling towers, including microbial control, disinfectant monitoring, *Legionella* prevention, and cooling-tower management.

8. At all relevant times, Judy Houle and Peter Sulock were hospitalized at BMC.

9. Peter Sulock died of a *Legionella* infection on July 14, 2025.

10. At all relevant times, Plaintiff Kathleen Sulock was a resident of Pittsfield, Massachusetts. She is the wife of, and the Personal Representative of the Estate of, Peter Sulock, decedent.

11. Judy Houle died of a *Legionella* infection on July 29, 2025.

12. At all relevant times, Plaintiff Tina Sanginetti was a resident of Springfield, Massachusetts. She is the daughter of, and the Personal Representative of the Estate of, Judy Houle, decedent.

13. Plaintiffs' decedents did not bring any actions for their personal injuries during their lifetime.

14. No other action for the wrongful deaths of decedents Peter Sulock and Judy Houle have been commenced against Defendants.

15. This Court has jurisdiction over this matter pursuant to Mass. Gen. Laws Ch. 212, § 3 as the amount in controversy exceeds the jurisdictional limit of \$50,000, exclusive of interest and costs.

16. This Court has jurisdiction over all Defendants pursuant to Mass. Gen. Laws Ch. 223A, §3 as each Defendant transacted and/or contracted business and services and/or committed tortious acts in the Commonwealth of Massachusetts.

17. Venue is proper in this Court under Mass. Gen. Laws Ch. 223, § 1 because one of the Defendants maintains its usual place of business in Berkshire County, and the injuries, events, and omissions giving rise to these claims occurred in Berkshire County.

### **FACTUAL BACKGROUND**

#### **A. *Legionella* and Legionnaires' Disease**

18. Legionnaires' disease (Legionellosis) is a severe form of pneumonia caused by exposure to the bacterial pathogen *Legionella*. It is contracted when tiny droplets (mist or vapor) of water contaminated with *Legionella* are inhaled.

19. The incubation period for Legionnaires' disease, or the time between exposure and onset of symptoms, is generally between 2 to 10 days, but up to 16 days has been recorded in some outbreaks.

20. Legionnaires' disease is a potentially fatal bacterial pneumonia of the lower respiratory system with a mortality rate between 15 and 20 percent.

21. Each year in the United States, 8,000 to 18,000 people are hospitalized with Legionnaires' disease. According to the United States Centers for Disease Control and Prevention ("CDC"), 10% or more of Legionnaires' disease patients die as a direct result of the disease.

22. Individuals with weak or compromised immune systems, such as those at hospitals, are at a heightened risk for contraction of Legionnaires' disease.

### **B. *Legionella* and Commercial Water Systems**

23. Bacterial species of *Legionella* thrive in warm water environments.

24. Although *Legionella* is found naturally in freshwater environments, such as lakes and streams, the low amounts in freshwater generally do not lead to disease.

25. *Legionella* becomes a health risk when it grows and spreads in human-made water systems, such as cooling towers.

26. Large commercial water systems, like those found in hospitals, are a recognized source of infection. *Legionella* bacteria can grow and multiply in commercial water systems and poses a significant danger to people around those systems.

27. When water systems are not properly maintained, *Legionella* biofilms develop. A biofilm is a deposit of microorganisms, and organic and inorganic materials, that stick together and accumulate within a matrix called a slime layer. They can form on solid or liquid surfaces when nutrients and water are present. This creates an environment where *Legionella* can grow and multiply into large colonies. In addition, *Legionella* biofilms are known to enhance the virulence of *Legionella* organisms.

28. 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* were observed. Deficiencies related to equipment failures and unmanaged external changes were less common, but the CDC found that those were also remediable through preventive measures, such as flushing of potable water systems.

29. Because of the well-known risks posed by *Legionella* in large-scale water systems, including hospitals, responsible owners and water-management professionals use water management plans that include testing and sanitizing systems designed to prevent the growth of the bacteria.

30. 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 entitled "Developing a Water Management Program to Reduce *Legionella* Growth and Spread in Buildings" that is widely available. Among other recommendations, this guide explains how to establish water management programs, monitor water systems, and take corrective actions.

31. Since 2000, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. ("ASHRAE"), has published Guideline 12, which sets forth guidelines to "minimize *Legionella* contamination in buildings."

32. According to this Guideline, ASHRAE 12-2000, commercial water systems should be properly treated to eradicate *Legionella* bacteria, and hot water should be stored at a minimum of 140° Fahrenheit and circulated with a minimum return temperature of 124° Fahrenheit to guard against the growth of *Legionella* bacteria in hot water systems in high-risk situations.

33. Furthermore, since June 2015, ASHRAE has published Standard 188, which sets forth standards to “minimize *Legionella* contamination in buildings.”

34. According to this Standard, ASHRAE 188-2015, commercial water systems must be properly treated to eradicate *Legionella* bacteria.

35. Prior to Decedents’ *Legionella* infection, there were innumerable guides and resources available for developing methods, policies, and procedures to reduce or eliminate *Legionella* growth and water system contamination.

36. To control *Legionella* growth and prevent Legionnaires’ disease outbreaks, certain requirements must be met and best practices must be followed, including but not limited to:

- a. Establishing a water management program team to develop and implement an effective water management plan and program;
- b. Creating and implementing an appropriate water management program designed to reduce or eliminate the risk of Legionellosis associated with cooling towers;
- c. Creating and implementing an appropriate Legionellosis Risk Management Plan incorporating the requirements set forth in ANSI/ASHRAE Standard 188;
- d. Hiring, training and supervising appropriate personnel responsible for the Water Management Program, including safe operation of cooling towers, as well as proper interpretation of and response to test results;
- e. Having adequate knowledge by owners and operators of (and compliance with) national, state and local standards, codes, regulations and statutes;
- f. Having in place a functioning primary disinfectant control system capable of monitoring and maintaining safe water quality;
- g. Ensuring availability of trained operation staff;

- h. Keeping a daily record of cooling tower operation that records manually conducted water tests for pH and disinfectant levels;
- i. Promptly and effectively responding to, remediating and correcting any condition detected by testing and/or sensors that reveal or tend to reveal a lack of *Legionella* control;
- j. Creating and adhering to procedures and schedules for inspection and replacement of cooling tower component parts;
- k. Creating and adhering to procedures and schedules for draining, cleaning, and disinfecting cooling towers and the equipment necessary to safely operate them;
- l. Maintenance of the cooling tower disinfection system in accordance with the manufacturer's instructions;
- m. Shock disinfection of the cooling tower at the end of each day by achieving the disinfectant residual and minimum circulation time recommended by the disinfectant manufacturer;
- n. Recording corrective actions in appropriate logbooks;
- o. Taking appropriate action when *Legionella* or conditions likely to promote *Legionella* growth are present, including taking the cooling tower out of use, notification of appropriate officials, testing, cleaning, disinfection, etc.;
- p. Providing staff training for operating manuals for the proper and safe operation of the cooling tower, including its louvers, basin, drift eliminators, and fill;
- q. Developing a clear communication chain for reporting operation problems; and
- r. Inspecting accessible recirculation system components for slime (biofilm) layers and cleaning as needed.

37. In order to properly and safely operate a water system, it must be carefully and frequently monitored and maintained, which requires checking, recording, and adjusting the water chemistry on a daily basis (or even several times per day depending on use and conditions), properly interpreting results, and taking appropriate responsive action.

38. Despite growing awareness of Legionellosis and well-established industry guidance concerning healthcare water management, Defendants failed to implement and maintain reasonable measures to minimize *Legionella* colonization within BMC's water systems.

39. Defendants did not warn area patients and visitors of the risk of contracting Legionnaires' disease by exposure to the building's internal water supply, plumbing, and water systems at the building, and all equipment and water utilized thereto.

40. As a direct and proximate result of Defendants' negligence in failing to take precautions or remedial action against *Legionella*, Decedents became infected with *Legionella* and suffered physical, emotional, and economic loss, including but not limited to past medical expenses, past pain and suffering, and death.

### **C. *Legionella* at BMC**

#### **a. Decedent Peter Sulock's Exposure at BMC**

41. Prior to his death, Decedent Peter Sulock was a resident of Pittsfield, Massachusetts and lived approximately five miles from BMC.

42. On or around June 30, 2025, to July 3, 2025, Decedent Peter Sulock was hospitalized at BMC.

43. On or around July 9, 2025, Decedent Peter Sulock began experiencing symptoms consistent with a *Legionella* infection.

44. On or around July 12, 2025, Decedent Peter Sulock was admitted to BMC where he was

diagnosed with pneumonia.

45. On or around July 12, 2025, a *Legionella* urine antigen test was performed and the results were positive, confirming a diagnosis of Legionnaires' disease. This test is specific for *Legionella pneumophila* serogroup 1 only.

46. Unfortunately, on July 14, 2025, Decedent Peter Sulock died.

**b. Decedent Judy Houle's Exposure at BMC**

47. Prior to her death, Decedent Judy Houle was a resident of Pittsfield, Massachusetts and lived less than one mile from BMC.

48. On or around July 17, 2025, Decedent Judy Houle was evaluated at BMC's Emergency Department for a cough and other symptoms of a cold.

49. On or around July 23, 2025, she began to experience abdominal pain activity, cough with clear phlegm, runny nose, and fever.

50. On or around July 25, 2025, she presented again to BMC's Emergency Department. A chest CT scan showed an extensive right lower lobe infiltrate and trace pleural effusion, indicative of pneumonia.

51. On or around July 26, 2025, a *Legionella* urine antigen test was performed and the results were positive, confirming a diagnosis of Legionnaires' disease. This test is specific for *Legionella pneumophila* serogroup 1 only.

52. Unfortunately, on July 29, 2025, Decedent Judy Houle died.

**c. The Massachusetts Department of Public Health's Investigation at BMC**

53. The *Legionella* infections and resulting deaths of Decedents Peter Sulock and Judy Houle were reported to the Massachusetts Department of Public Health ("MDPH").

54. MDPH classified Decedents' Legionnaires' diseases as being healthcare facility associated

as they had spent time in and around BMC during their respective incubation period (14 days).

55. MDPH's investigation revealed that BMC's water system was contaminated with *Legionella pneumophila*.

56. Multiple samples collected during quarterly testing in June, July, and August of 2025 identified the presence of *Legionella pneumophila*, including *Legionella pneumophila* serogroup 1, in multiple locations throughout BMC's water system. During the same period, Decedents were diagnosed with Legionnaires' disease caused by *Legionella pneumophila* serogroup 1.

57. By at least January 2023, environmental testing confirmed the presence of *Legionella* within both BMC's domestic water system and cooling towers. In response, BMC undertook hyperchlorination and other remedial measures in an effort to eliminate *Legionella* from its water systems.

58. Despite these remediation efforts, environmental sampling continued to detect *Legionella* within portions of BMC's water system on multiple occasions over the next two years, including positive findings in August 2023, February 2024, June 2024, and June through August 2025.

59. Upon information and belief, during the relevant time period, Nalco Water participated in developing and implementing BMC's Water Management Plan and performed water-system analyses, *Legionella* testing, and monitoring services related to BMC's water systems as reflected in BMC's CDC Environmental Assessment Form.

60. Upon information and belief, during the relevant time period, Clarity Water monitored disinfectant levels for BMC's cooling towers, maintained records relating to cooling tower operation and maintenance, and performed hyperchlorination of BMC's potable water system and offline remediation of its cooling towers as reflected in BMC's CDC Environmental Assessment Form.

61. Clarity Water's Water Treatment Program prepared for BMC states as follows:

Clarity Water Technologies provides comprehensive water treatment services for [BMC]'s three cooling towers . . . . The purpose of [Clarity Water's] treatment program is to ensure . . . [m]icrobial control, including protection against *Legionella* and other opportunistic pathogens. . . . [and r]egulatory compliance with ASHRAE 188, CDC, and state Department of Public Health (DPH) guidance on cooling tower operation.

62. BMC's CDC *Legionella* Environmental Assessment Form states that Clarity Water monitors the disinfectant levels for BMC's cooling towers and keeps its records for cooling tower operation and maintenance.

63. Given the number of positive findings throughout BMC's campus, MDPH was concerned that BMC's *Legionella* contamination was not limited to just the positive sites but was systemic throughout BMC's water supply. This indicated to MDPH that BMC's water management program was not effective at preventing or controlling *Legionella* growth and that BMC's water system was not being properly managed or maintained to prevent or control *Legionella* growth.

64. MDPH provided numerous recommendations to BMC, including but not limited to restricting water use in all buildings with positive detections until hyperchlorination is performed, implementing point of use filters, using bottled water and bagged ice, updating the water management plan, and notifying staff and patients.

65. At a meeting between BMC and MDPH in September 2025, MDPH expressed concern about the elevated levels of *Legionella* in BMC's cooling towers given the additional community-acquired Legionnaires' disease cases who live near BMC.

66. MDPH stated that BMC, Nalco Water, and Clarity Water needed to collaborate to ensure water management practices associated with the cooling towers were reviewed to identify the cause of the high sample results, adjustments made to water management activities, and those adjustments documented in the water management plan.

67. In and around September 17, 2025, BMC issued a press release stating that it had identified seven cases of Legionnaires' disease in the prior four months. All of the cases were associated with BMC.

## CAUSES OF ACTION

### COUNT I (NEGLIGENCE)

68. Plaintiffs incorporate all previous paragraphs as if fully restated herein.

69. At all relevant times, it was the duty of Defendants and their servants, agents and/or employees, to maintain BMC, including the internal water supply and plumbing, cooling towers, and all equipment and water utilized thereto.

70. At all relevant times, Defendants exercised control, operated, maintained, monitored, treated, or otherwise had responsibility for the water systems serving BMC.

71. At all times herein mentioned, *Legionella* contaminated the water system at BMC and infected Decedents on or around June/July of 2025.

72. Defendants committed one or more of the following negligent acts and omissions:

- a. creating a dangerous condition by allowing its systems to accumulate and proliferate the *Legionella* bacteria;
- b. permitting others to create a dangerous condition;
- c. permitting defective systems to exist in and about the premises where Defendants knew Decedents and others were being treated;
- d. failing to adequately treat the defective water system in and about the premises where Defendants knew Decedents and others were being treated;
- e. permitting Decedents to be exposed to the dangerous accumulation and proliferation of *Legionella* bacteria as occupants of BMC;

- f. failing to warn Decedents and/or their families (including Plaintiffs) of the presence of bacteria and defective systems on BMC's premises;
- g. failing to keep water over the minimum temperature required to control the growth of *Legionella* bacteria;
- h. failing to perform proper regular water quality analysis for biological contamination of its systems and otherwise test or inspect said systems to determine if it harbored microbiological contaminants, including *Legionella* species;
- i. failing to exercise the degree of care owed to Decedents; and
- j. other omissions and acts of negligence and wrongful conduct as will be determined through discovery and investigation during the pendency of this lawsuit.

73. In committing one or more of the acts or omissions set forth above, Defendants breached their duty of care to Decedents, and as a direct and proximate result thereof, caused Decedents to contract severe and life-threatening illnesses.

74. Prior to Decedents' *Legionella* infections, Defendants knew or should have known that the water systems at BMC were contaminated with *Legionella* bacteria, which created an unreasonable risk of harm, injury, and/or death to patients, visitors, and others at BMC, including Decedents.

75. The presence of *Legionella* in a water system does not normally occur in the absence of negligence.

76. Defendants, by and through their employees, agents, or those acting on their behalf, failed and neglected to cure and/or correct the dangerous and defective conditions complained of herein in violation of relevant provisions of ASHRAE and other applicable statutory guidelines and law.

77. Decedents' *Legionella* infections were not the result of their own negligence.

78. As a proximate result of the above-described wrongful acts and omissions of Defendants,

Decedents suffered severe complications from *Legionella* infections that caused their deaths.

79. Decedents also incurred medical and hospital bills for the treatment of their *Legionella* infections and complications as a result of Defendants' wrongful acts and omissions.

WHEREFORE, Plaintiffs claim damages from Defendants for the above-described compensatory, special, and general damages together with interest and costs.

**COUNT II  
(WRONGFUL DEATH)**

80. Plaintiffs incorporate all previous paragraphs as if fully restated herein.

81. As set forth above, Defendants owed a duty of care to Decedents.

82. Defendants breached their duty of care to Decedents, and as a direct and proximate result thereof, caused Decedents to contract severe and life-threatening illnesses.

83. Decedents' *Legionella* infections were not the result of their own negligence.

84. As a proximate result of the above-described wrongful acts and omissions of Defendants, Decedents suffered severe complications from *Legionella* infections that caused their deaths.

85. As a direct and proximate result of Defendants' wrongful acts and omissions, Decedents were caused to suffer consciously until the time of their deaths, during which time they experienced conscious pain, suffering, emotional distress, loss of enjoyment of life, and other general damages.

86. Decedents also incurred medical and hospital bills for the treatment of their *Legionella* infections and complications as a result of Defendants' wrongful acts and omissions.

87. As a direct and proximate result of the deaths of Decedents, their surviving heirs have been deprived of their presence, love, support, affection, services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice, and thus have suffered pecuniary loss.

88. As a further direct and proximate result of the deaths of Decedents, their heirs have incurred funeral and burial expenses.

89. Defendants may also be liable for punitive damages if it is determined that Decedents' deaths were caused by the malicious, willful, wanton or reckless conduct of Defendants or by the gross negligence of Defendants.

WHEREFORE, Plaintiffs claim damages from Defendants for the above-described wrongful death and damages under Mass. Gen. Laws ch. 229, §§ 2 and 6, together with interest and costs.

**COUNT III**  
**(SURVIVAL ACTION)**

90. Plaintiffs incorporate all previous paragraphs as if fully restated herein.

91. As set forth above, Defendants owed a duty of care to Decedents.

92. Defendants breached their duty of care to Decedents, and as a direct and proximate result thereof, caused Decedents to contract severe and life-threatening illnesses.

93. Decedents' *Legionella* infections were not the result of their own negligence.

94. As a proximate result of the above-described wrongful acts and omissions of Defendants, Decedents suffered severe complications from *Legionella* infections that caused their deaths.

95. By reason of the wrongful acts and/or omissions, neglect, default, and other wrongful conduct of Defendants herein, as alleged above, Decedents were directly and proximately caused to suffer serious and fatal injuries until the time of their deaths, including but not limited to, mental and physical bodily injuries, pain, suffering, emotional distress, diminished capacity for the enjoyment of life, a diminished quality of life, and other losses and damages.

96. Accordingly, Defendant is liable and responsible for the injuries and damages suffered and incurred by Decedents up until the time of their demise, in an amount to be determined at trial.

97. By reason of the wrongful acts and/or omissions, neglect, default, and other wrongful conduct of Defendants herein, as alleged above, Decedents were also required to incur medical

bills and other expenses for the treatment of their *Legionella* infections and complications.

WHEREFORE, Plaintiffs claims damages from Defendants for the above-described survival action damages under Mass. Gen. Laws Ch. 228, § 1, together with interest and costs.

**PRAYER FOR RELIEF**

Plaintiffs request judgment against Defendants for damages for all injuries and losses including, but not limited to:

- A) Decedents' conscious pain and suffering;
- B) Decedents' medical and hospital expenses;
- C) Decedents' reasonable funeral and burial expenses;
- D) The loss of reasonably expected services, protection, care, assistance, society, companionship, comfort, guidance, counsel, and advice of the Decedents;
- E) All recoverable costs of this action and all legally recoverable interest; and
- F) Any other relief which the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury of all claims so triable.

Dated: July 7, 2026

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